

(1999) 05 AHC CK 0123

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 5737 of 1988

Raj Kumar Pathak and Ors.

APPELLANT

Vs

Director of Higher Education, Allahabad & Ors.

RESPONDENT

Date of Decision : 26-05-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 05 AHC CK 0123

Hon'ble Judges : Palok Basu, J and Ikram-Ul-Bari, J

Final Decision : Allowed

Judgement

1. There are 6 petitioners in this writ petition all of whom alleged their appointments through the Amantran Patra, a copy of one of which has been filed as Annexure 4 to the writ petition. By the aforesaid letter and the like of which was served on each one of the petitioners they were invited to deliver lecture but Rs. 15 per lecture was payable to them as per Government Order dated 2271986.

2. Several writ petitions have been filed in this Court such as 4812 of 1988. Km. Renu Tewari and others v. State of U.P. and others, 9405 of 1988, Km. Neelam Ram Lamta and others v. The Director, Higher Education, (U.P), Allahabad and another. Km. Manju Dhingra and others v. The Director, Higher Education, (U.P), Allahabad and another in Writ Petition No. 11795 of 1989 and Smt. Jai Shree and another v. The Director of Higher Education, (U.P.), Allahabad and others in Writ Petition No. 13690 of 1997 and some others.

3. The leading case of the bunch has been treated to be that of Km. Renu Tewari and others v. The Director of Higher Education, (U.P), Allahabad and others in Writ Petition No. 1812 of 1988.

4. When the writ petition was filed an interim order was passed in favour of 6 petitioners to the effect that:

"Until further orders. It no orders in writing have been issued to the petitioner terminating their services, the respondents shall not interfere with the right of

the petitioners to teach in the Government Post Graduate Degree College Gyanpur and shall continue to pay their emolument until further orders."

5. Thereafter in all the writ petitions detailed counteraffidavits were filed and in the instant case the counter affidavit says that the averments made in the counteraffidavit in Writ Petition No. 5507 of 1987 Dr. (Miss) Mohini Bhatia is adopted a copy of that counteraffidavit has been appended along with the counteraffidavit of Dr. Suresh Chandra Tewari the then Asst. Director of Higher Education, (U.P.), Allahabad, rejoinder affidavit has been filed.

6. Shri YB. Singh assisted by Shri PS. Baghel has been heard at substantial length. Shri A.N. Rai Standing Counsel has espoused the cause of interference.

7. According to the petitioners claim in the instant writ petition, the emphasis has been on the Government Order, dated 2271986 (Annexure 3) and it was argued on behalf of the petitioner that if once that is quashed the petitioners will continue to work as Lecturer in the College. Further prayer is that the respondents be restrained from interfering in working of the petitioner all regular selections are made by the U.P Public Service Commissioner and each one of the petitioners should be paid salary in the University Grants Commission's approved pay scale of Rs. 2,2004,000.

8. To cut short the entire controversy it may be pointed out as has been admitted by the learned counsel for the parties that the judgment of the Division Bench in Writ Petition No. 4812 of 1988. Km. Renu Tewari and other v. The Director, Higher Education, (U.P), Allahabad and others, was challenged before the Hon"ble Supreme Court by the respondents is Special Leave Petition No. 3921 of 1997. The respondents Special Leave Petition was dismissed. Consequently the view expressed in the aforesaid decisions has the seal of approval by Hon"ble the Supreme Court.

9. It may be further pointed out that in Writ Petition No. 12866 of 1987 another Division Bench incorporated the operative part of the order of the Division Bench in Writ Petition No. 4812 of 1988, referred to above and directed that the said Writ Petition No. 12866 of 1987 stood disposed of in terms of the operative portion in Writ Petition No. 4812 of 1988.

10. The operative portion of the judgment in Writ Petition No. 4812 of 1988 read as under:

"In the premise we are of the view that the Government Order dated 2271986 is liable to be quashed and the petitioners are entitled at least the minimum pay scale in the regular pay scale for lecturers teaching in same colleges. According to the petitioners it is scale of pay of Rs. 22004000. In the circumstances, we direct that the petitioners be paid salary instead of per lecture equivalent of Rs. 15, if not already enhanced, in the minimum of the scale of pay. In case the pay scale has been enhanced, then salary shall be paid in the enhanced pay scale. We further provide that the case of the petitioners for regularization be

considered in the light of observations made above and in accordance with law.

The writ petition is allowed in terms mentioned above. Parties to bear their own costs."

11. The present writ petition is clearly covered by the aforesaid judgment, the operative portion of which has been incorporated above. The writ petition is, thus, allowed on the terms and conditions provided in the judgment Writ Petition No. 4812 of 1988 dated 10th October, 1996. There will be no order as to costs.