
(2003) 03 AHC CK 0069
In the Allahabad High Court
Case No : Special Appeal No. 153 of 2003

Raja Ram Chaudhary	Vs	APPELLANT
Satya Narain Gupta and Others		RESPONDENT

Date of Decision : 12-03-2003

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 18

Citation : (2003) 3 AWC 1709

Hon'ble Judges : S.P. Srivastava, J;M.P. Singh, J

Bench : Division Bench

Advocate : Arun Tandon, for the Appellant; K. Shahi and S.C., for the Respondent

Final Decision : Dismissed

Judgement

S.P. Srivastava and M.P. Singh, JJ.—Heard the learned counsel for the appellant.

2. This special appeal has been filed against an interlocutory order passed by the learned single Judge. The writ petition is still pending awaiting final decision.

3. The learned single Judge vide the impugned order had directed the District Inspector of Schools, Siddharth Nagar to ensure that the next most senior teacher in the college is handed over charge of the post of Principal within a week of production of a certified copy of the said order before the District Inspector of Schools, Siddharth Nagar.

4. It is not disputed that a controversy in regard to the seniority of the present appellant vis-a-vis Satya Narain Gupta, respondent No. 1 is still awaiting adjudication. It is further not disputed that the appellant had attained the age of superannuation on 20.1.2003 and he is continuing only on extension till the expiry of academic session that is upto 30.6.2003 as envisaged under the Regulations. The purpose of such continuance as clarified by this Court in its decision rendered by a Division Bench in the case of Committee of Management,

Jagdish Saran Rajvanshi Kanya Inter College Meerut and another Vs. Joint Director of Education and others, is to extend the benefit in favour of the teacher in the interest of the students and the Institution indicating further that such benefit does not create any vested right or lien against the post.

5. Placing reliance upon an earlier decision of this Court rendered by another Division Bench in the case of R. L. Prasad v. State of U. P. and Ors. 1987 AWC 1314, it had been further made clear that once a teacher had attained the age of superannuation, he had no vested right to continue in service. Such a teacher, who, after attaining the age of superannuation, was granted extension till the end of the academic session in case he attained the age of superannuation in the mid session, could not be entitled to get an order of appointment though selected for the post by the Commission.

6. In an other decision rendered by Division Bench in the case of Dr. R.C. Gupta Vs. State of U.P. and Others, , this Court had indicated that since the petitioner in that case was acting Principal of the institution in question and had attained the age of superannuation during the mid session, he did not have any right to continue as acting Principal till the end of the session. He could continue only as a lecturer till the end of the academic session and not as acting Principal. The Division Bench had drawn ample support for the aforesaid view from the observations made by the Apex Court in the case of S. K. Rathie v. Prem Hari Sharma and Ors. 2000 (4) AWC 2713 : 2000 (4) ESC 2278. Even the Government order dated 5.7.2001, it was noticed, had clarified that an ad hoc Principal cannot perform the functions of Principal after he crosses the age of 60 years that is the age of superannuation.

7. So far as the interlocutory order in question is concerned, it does not have the effect of relieving the appellant of the charge of the post of a teacher so as to teach/Impart education to the students concerned. He can continue as such till the end of the academic session. The interim order only secures the position that the appellant is relieved from the additional charge of the post of Principal held by him on ad hoc/officiating basis.

8. The learned counsel for the appellant has strenuously urged that the provisions contained in Section 18 of the U. P. Secondary Education Service and Selection Board Act, 1982 envisaged the continuance of an ad hoc Principal till a selected candidate on regular basis takes over charge of the post of Principal.

9. The contention is that under the aforesaid provision only a senior-most teacher is entitled to continue as ad hoc Principal and since the appellant on account of the strength of his seniority had been allowed to hold the post of Principal on ad hoc basis, he has a right to continue as such till the end of academic session unaffected by the fact that he has attained the age of superannuation.

10. The contention is totally misconceived. The purpose of extension till the end of the academic session after attaining the age of superannuation is only to

secure the benefit in favour of the students and the institution as clarified by this Court in the aforesaid two decisions.

11. The fact that the appellant has already attained the age of superannuation is not in dispute. Further, the fact that question of seniority has not yet been determined and on account of the appellant having attained the age of superannuation, it has lost all its significance is also not disputed. These additional factors also do not justify an interference in the discretion exercised by the learned single Judge.

12. Taking into consideration the ratio of the decision in the case of Committee of Management, Jagdish Saran Rajvanshi Kanya Inter College Meerut and another Vs. Joint Director of Education and others, as well as the other decision of this Court rendered by a Division Bench in the case of Dr. R.C. Gupta Vs. State of U.P. and Others, no justifiable ground can be said to have made out for any interference in the discretion exercised by the learned single Judge.

13. It is, however, clarified that this order will not affect the admissibility of any pecuniary benefit to which the appellant is ultimately found entitled to at the time of final decision of the writ petition.

14. This appeal is, accordingly, dismissed.