
(2016) 05 AHC CK 0014

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 6932 of 1996

Ram Dayal and another

APPELLANT

Vs

Director of Education and others

RESPONDENT

Date of Decision : 02-05-2016

Acts Referred:

Citation : (2016) 7 ADJ 372

Hon'ble Judges : Ashwani Kumar Mishra, J.

Bench : Single Bench

Advocate : A.K. Pandey and R.K. Verma, Advocates, for the Appellant; C.S.C., B.N. Singh, C.B. Yadav and H.N. Singh, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Ashwani Kumar Mishra, J.—Ram Dayal son of Ram Sagar and Anirudh Thakur son of late B.N. Thakur have filed the present writ petition for a direction upon the respondents to pay salary to them, on the post of Assistant Clerk along with arrears, consequent upon their appointment in "Baba Laxman Das Dwaba Rashtriya College, Bairiya, Ballia". According to the writ petitioners, the institution is a recognised aided institution under the provisions of the Intermediate Education Act, and Payment of Salaries Act are also applicable. After due permission and intimation, advertisement was issued by the Committee of Management for making 2 appointments on the post of Assistant Clerk in the institution.

2. According to the petitioners, the post was advertised in daily Hindi news paper " Anant Varta" on 4.7.1990 and thereafter in daily Hindi news paper " Bali" on 3.7.1990 and that they were appointed on 4.8.1990. The alleged appointment order mentions that the petitioners had been appointed on temporary basis. It is then stated that the petitioners' appointment was duly intimated and that the District Inspector of Schools granted financial approval to petitioners' appointment on 3.1.1991. Further directions were also issued by the District Inspector of Schools for payment of salary but as the same was not released,

present writ petition has been filed .

3. The committee of management has filed two counter affidavits. Petitioners' appointment is not denied by them but it is claimed that temporary appointment were issued to the petitioners and payment of salary was released from by the institution itself. It is, stated that only 2 posts were advertised and petitioners were engaged beyond the posts advertised on temporary basis. A counter affidavit has been filed by the State authorities, stating therein that there are 56 sanctioned posts of teaching and non teaching staff in the institution and against 56 persons are already working and no vacant posts had come into existence, against which petitioners could be appointed. It has been specifically stated that the alleged approval order dated 3.1.1991 is forged and no such order had been issued. It is stated that in the absence of there being any vacancy, the question of petitioners getting salary from the State does not arise.

4. I have heard Sri Krishna Mohan Singh, learned counsel for the petitioners, Sri Vineet Kumar Singh for the committee of management and learned Standing Counsel for the respondent State.

5. Writ petition discloses a desperate attempt on part of petitioners in fraudulently securing appointment in the institution and to defraud the State Government by claiming salary from the State exchequer. It is apparent on record that no vacancy had come into existence, against which petitioners could be appointed. The advertisements are alleged to have been made in two news papers, which hardly have any circulation. Petitioners' appointment was also temporary. The alleged order of financial approval dated 3.1.1991 is said to be forged. Petitioners have not been able to demonstrate that there is any right created in them to seek payment of salary from the State exchequer. In the absence of their being any vacant post as well as procedure for appointment followed in accordance with law, petitioners have no right to get salary from the State.

6. Writ petition, accordingly, stands dismissed.

7. From the stand taken by the respondent-State, it is apparent that the petitioners have tried to mislead the authorities and documents have been manufactured, with an intent to secure financial benefits from the State. In view of the stand taken by the respondent State, it was incumbent upon them to initiate appropriate criminal proceedings. The Director of Education, Secondary, U.P. at Allahabad is, therefore, directed to get the matter examined and in case it is found that offence under the provisions of the Indian Penal Code has been committed, appropriate legal action shall be taken against those found guilty.