

(2008) 11 AHC CK 0104

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 6867 (S/S) of 2008

Ram Narain Singh

APPELLANT

Vs

State of U. P. and others

RESPONDENT

Date of Decision : 04-11-2008

Acts Referred:

Citation : (2008) 11 AHC CK 0104

Hon'ble Judges : A.N.Varma, J

Final Decision : Dismissed

Judgement

A.N. Varma, J.

1. The petitioner was appointed as an Assistant Teacher in C.T. Grade on 25.6.1991. His services were dispensed with in 1994 by an oral order. Being aggrieved, he approached this Court in Writ Petition No. 5642 (SS) of 1996. No interim order was granted in the said petition, as such, he did not work thereafter as an Assistant Teacher. The writ petition was finally taken up and decided on 23.10.2007 (Annexure No. 2), perusal of which reveals that as disputed questions of fact were raised, therefore, without entering into the merits of the case this Court directed the Basic Shiksha Adhikari to look into the matter and decide the controversy within the time stipulated in the said order. It was further directed that the Basic Shiksha Adhikari shall grant opportunity of hearing to the parties. In compliance of the directions of this Court, the Basic Shiksha Adhikari vide order dated 12.6.2008 decided the controversy involved. It is the said order that has been made subject matter of challenge in the instant writ petition. Perusal of the impugned order shows that the petitioner as well as Management were given opportunity of hearing.

2. According to the learned Counsel for the petitioner, the Basic Shiksha Adhikari, while deciding the controversy has fallen in grave error. It wrongly held that the record was not available and, therefore, without relevant record, matter could not have been decided. He further argued that that it was obligatory on the part of the opposite parties to record finding on the question of appointment and

approval of the petitioner. In support of his case, learned Counsel placed reliance upon decisions rendered by this Court reported in 1981 UPLBEC 127, and 2003 UPLBEC 764. On the strength of the said decisions, learned Counsel tried to impress that in view of the fact that Rule 15 was mandatory as held by this Court, as such, the order impugned has been rendered without application of mind.

3. As would appear, it is not disputed that the appointment of the petitioner was made in 1991 on temporary basis. It is also not disputed that his services were dispensed with by an oral order which was assailed in the petition wherein no interference was made. This Court found no merits while dismissing the petition and only directed the opposite party No. 2 to look into the matter after affording opportunity of hearing to the parties concerned. In compliance of the directions of this Court, the petitioner was allowed opportunity and thereafter the matter proceeded.

4. The merits of the case having not been gone into by this Court in writ petition filed against the oral order of discharge, the same having become final, it now can not be argued that there was any illegality or infirmity in the order of discharge. Opposite party No. 2 on the basis of material before it has delved into the controversy and has adjudicated upon the matter after opportunity of hearing to the parties.

5. The proposition laid down in the decisions relied upon by the petitioner has no application in so far as the case at hand is concerned as the oral order of discharge was not interfered with and the same was maintained in the earlier writ petition. The order impugned, in the circumstances, does not suffer from any illegality or infirmity.

6. The writ petition is accordingly dismissed. Petition dismissed.