

(2003) 04 AHC CK 0245
In the Allahabad High Court
Case No : C.M.W.P. No. 43951 of 1997

Rama Shankar Agarwal and Others

APPELLANT

Vs

Regional Joint Director of Education and Another

RESPONDENT

Date of Decision : 25-04-2003

Acts Referred:

Citation : (2003) 5 AWC 4394

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : M.K. Gupta, V.B.L. Srivastava and Ram Ji Srivastava, for the Appellant; P.C. Mishra and S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—The Petitioners are teachers in the V.D.P. Government Intermediate College, Mathura. They were given promotional pay scale with effect from June, 1997, whereas they claim to be entitled to such pay scale with effect from 1st March, 1995. For grant of such relief, the Petitioners filed representation before the Respondents, which has been disposed of by Respondent No. 1, the Regional Joint Director of Education, Agra vide order dated 27.11.1997 which is impugned in this writ petition. By the said order the promotional pay scale granted to the Petitioner itself has been withdrawn and it has further been held that the excess payment made to the Petitioners on such pay scale was illegal. As a consequence Respondent No. 2, the Principal of the college passed order dated 9.12.1997 by which the promotional pay scale has been withdrawn in the case of the Petitioners. Aggrieved by the aforesaid orders, the Petitioners have filed this writ petition.

2. Learned Counsel for the Petitioner has submitted that they had already been given the benefit of promotional pay scale with effect from June, 1997. The impugned order has been passed by Respondent No. 1 on a representation made by them for granting such pay scale from a prior date and instead of granting any relief to the Petitioners, the benefit already granted to them had also been

withdrawn and that too without affording any opportunity of hearing. It has also been submitted that the Government order dated 3.6.1989, would still be applicable in the case of the Petitioners. The Petitioners further contended that the benefit of promotional pay scale had been given to certain other teachers who are similarly situated as the Petitioners and thus, the Petitioners have been discriminated.

3. Having heard learned Counsel for the Petitioner and on perusal of the record, I am of the view that since the impugned order has been passed by Respondent No. 1 on an application by the Petitioners for grant of promotional pay scale from a prior date, in case if the said Respondent had to pass an order totally withdrawing the benefit which had already been granted, the Petitioners were entitled to be heard before passing of the said order. As such I am of the opinion that the impugned order has been passed in violation of the principles of natural justice and deserves to be quashed.

4. However, the claim of the Petitioners for being given the benefit of promotional pay scale is remitted back to Respondent No. 1, the Regional Joint Director of Education, Agra, for deciding the same afresh after affording adequate opportunity of hearing to the Petitioners. The Respondent No. 1 shall pass a reasoned order in accordance with law within three months of the filing of a certified copy of this order before it. It is made clear that while deciding such claim, the said authority shall also consider whether any other teachers who are similarly situated as the Petitioners, have been granted such benefit or not.

5. Accordingly, this writ petition is allowed. The impugned order dated 27.11.1997 passed by Respondent No. 1 as well as the consequential order dated 9.12.1997 passed by Respondent No. 2 are set aside. The Respondent No. 1 shall decide the case regarding grant of promotional pay scale to the Petitioners in accordance with law in the light of the observations made above. However, there shall be no order as to costs.