

(2010) 09 AHC CK 0256

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 33807 of 2007

Ramchandra

APPELLANT

Vs

State of U.P. & Ors

RESPONDENT

Date of Decision : 29-09-2010

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 10

Citation : (2010) 09 AHC CK 0256

Hon'ble Judges : Sunil Ambwani, J and Kashi Nath Pandey, J

Final Decision : Dismissed

Judgement

1. By this writ petition the petitioner has prayed for directions to allow him UGC pay scale with effect from July, 1999 and to pay the entire arrears of salary. He has also prayed for directions to allow and grant pay scale of Senior Lecturer and Reader.

2. From the representation of the petitioner dated 9.7.2007, and the pleadings in the writ petition, we find that the petitioner is a Post Graduate in Science (M. Sc.) in 1985 with 53.3% marks; B. Ed. In 1973 with 56.9% marks, M.Ed. In 1976 with 62% marks and Pd.D in Education in 1983, and was awarded UGC Fellowship. He was appointed as Lecturer in Sri Bajrang Teachers Training College, Deeg, Bharatpur (Rajasthan) on 3.8.1983 and continued upto 31.3.1984. He was again appointed as Lecturer on 12.7.1985 in the same college and continued upto 22.8.1986. In the year 1988, he was appointed as Lecturer in Maharaja Suraj Mal Teachers Training College, Bharatpur, Rajasthan and continued upto 8.1.1988. Thereafter he applied and was appointed as Lecturer in Kishori Raman Teachers Training College, Mathura on 9.1.1988 and is continuing on the post. His appointment was approved by the Joint Director (Training) on 6.6.1989. He represented to the Director of Higher Education, UP Allahabad that he is entitled to UGC grade as paid to the lecturers of other degree colleges.

3. In the counteraffidavit of Dr. Ram Chandra Mishra, Assistant Director in the

Directorate of Higher Education. UP. It is stated in para 3 (a) that as per policy decision of the State Government four LT Training Colleges of the State were converted into B.Ed. Training Colleges w.e.f. 1.7.1999 and were merged with the Department of Higher Education. The liability of payment of salary of the teaching and nonteaching employees of these colleges were transferred to the Department of Higher Education. The teachers in these colleges, according to the policy decision, were given salary in terms of the pay scales as applicable to B.Ed. Teachers working in the nongovernmental colleges in the State provided the minimum qualification is based on UGC qualifications applicable to B.Ed. Teachers. It is further stated in para 3 (c) and (d) of the counteraffidavit that the payment of salary to the teachers of LT colleges at par with teachers of B.Ed. Colleges involves application of principle of equal pay for equal work, based on quality of work, which requires consideration of factors such as qualifications, method of selection and appointment, nature of duties and responsibilities. There is a vast difference between the LT College teachers and B.Ed. Teachers relating to their qualification, process of recruitment, nature and scope of duties, responsibilities, work and liabilities. The petitioner's case was considered by the State Government on 4.1.2006. The Director of Higher Education informed that the petitioner is not qualified in terms of the UGC qualifications as applicable to B.Ed. Teachers. In respect of Dr. Subedar Singh claiming same benefits an order was passed by the State Government communicating the Director of Higher Education in pursuance to the order dated 12.12.2005 passed in Writ Petition No. 38166 of 2005. In this order dated 4.1.2006 the State Government decided that out of the teachers working in four LT Colleges only Dr. Ram Chandra the petitioner serving in Kishori Raman Teachers Training College, Mathura is qualified. He was also not found eligible for UGC pay scale on the ground namely that he has 44.02% marks in the Intermediate, and that his appointment was not approved by the concerned University/Higher Education Service Commission. It was thus found that the teachers in these four LT Colleges namely Kishori Ram Teachers Training College, Mathura; Christian Training College, Lucknow; D.A.V. Training College, Kanpur and K.P. Training College, Allahabad appointed to teach LT courses, do not fulfil the required eligibility for appointment as lecturers for teaching B.Ed. Classes.

4. The State Government in its letter dated 4.1.2006 written to the Director of Higher Education, UP Allahabad further observed that the pay scales on any post depend upon the source of recruitment, eligibility and the selection process. There is difference in the conditions of service of LT and B.Ed. Teachers and that their selections and appointments of LT grade teachers is not approved by the concerned Universities/Higher Education Service Commission. These teachers teaching in the four LT Colleges were, therefore, not entitled to UGC pay scales.

5. In the rejoinder affidavit, it is stated that after the conversion of LT Training Colleges into B.Ed. Training College the petitioner is teaching in B.Ed. Classes. The prescribed qualification as per Statutes of Meerut University is a master's degree or an equivalent degree (M. Ed) with at least 55% marks, or its

equivalent degree, and consistently "good academic record" with M. Phil degree or Ph.D degree awarded upto December, 1993. The petitioner possesses the essential qualifications and has also passed all the examinations with high second class marks in terms of the Statute 11.13 (2), and also has "consistently good academic record" within the meaning of Statute 11.01 (clause6).

6. The petitioner did not disclose the decision of the State Government in the matter of representation of Dr. Subedar Singh and in which the petitioner's case was also considered. The State Government had given reasons in the order namely that the essential qualification, selection procedure and the approval of the appointment of LT college teachers and B.Ed. College teachers is different and thus LT College teachers even after the four colleges were taken over by the State Government, are not entitled to UGC scales. The petitioner was required to place the material before the Court for proper appreciation of the facts. His reliance upon the judgments annexed to the writ petition relating to counting of past services is not relevant to the decision at all.

7. We do not find any error of law in the decision of the State Government in finding that the petitioner and other teachers in four LT Colleges taken over by the State Government now running B.Ed. Classes are not entitled to the UGC pay scale applicable to the Colleges running B.Ed. Classes. The State Government has considered the equivalence of the qualifications, eligibility, selection procedure and the status of the authority, which is required to approve the services for claiming parity with B.Ed. College teachers. The matters of considering equivalence strictly fall within the domain of the executive powers. The Court can interfere with such exercise of powers only, if it finds that the equivalence has not been considered on any relevant material, or is based on extraneous materials or suffers from mala fides. In the present case, the decision of the State Government is not vitiated in any of these conditions. The State Government has, in its order dated 4.1.2006, in pursuance to the order passed by this High Court on 9.11.2005 and 12.12.2005 in the matter of Dr. Subedar Singh, found that since the eligibility, selection and approving authority of LT grade and B.Ed. Grade teachers are different, the conversion of LT training colleges into three training colleges did not ipso facto entitle the teachers to the UGC pay scales, for B.Ed. Teachers.

8. The writ petition is dismissed.