

(2006) 03 AHC CK 0199

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 16580 of 2006

R.S. Singh

APPELLANT

Vs

State of U.P., The Director, Institute of Engineering and Rural
Technology and Divisional Commissioner, Allahabad
Authorised Controller, Institute of Engineering and Rural
Technology

RESPONDENT

Date of Decision : 31-03-2006

Acts Referred:

Citation : (2006) 9 ADJ 252 : (2006) 7 AWC 6807 : (2006) 110 FLR 780 :
(2006) 2 UPLBEC 1646

Hon'ble Judges : V.M. Sahai, J;Barkat Ali Zaidi, J

Bench : Division Bench

Advocate : Kamla Singh, for the Appellant; Aditya Kumar Singh and S.C., for the Respondent

Final Decision : Allowed

Judgement

V.M. Sahai and Barkat Ali Zaidi, JJ.—The petitioner is a Instructor (Lecturer Drawing) in a institution of Engineering and Rural Technology, Allahabad. He has been retired at the age of 60 years on 7.3.2006. His contention is that according to the G.O. dated 27.6.1988, (Annexure - 5 to the counter affidavit), he cannot be retired during the current academic session and his retirement will held good after the end of the Session i.e. 30th June, 2006 and his retirement is therefore, illegal and the respondent be directed to permit the petitioner in service till 30.6.2006 and is how this petition.

2. Counsel for the parties have been heard.

3. Learned Counsel for the respondent Nos. 2 to 4 has opposed the prayer relying ON A Full Bench decision in the case of Prabhat Ranjan Sharma v. Director Technical Education U.P. Kanpur 1998 ACJ. 951 of this Court, wherein, it has been held that a teacher who has opted his retirement at the age of 60 years, cannot claim extension of service after attaining the age of 60 years and

the aforesaid extension cannot be claimed as a matter of right and is subject to certain conditions contained in the Government Order referred to above. This case will have no application here because subsequent to this decision, a fresh Government Order dated 21.2.2004 (Annexure - 2 to the writ petition) has been issued that this benefit of service being continued till end of Sessions will extend also to those teachers who retired at the age of 60 or 62 years.

4. In this view of the matter, the other submission of the counsel for the Respondent Nos. 2 to 4 that the Government vide letter dated 6.10.1995 had already refused to extend this benefit to those who completed the age of 60 years, is of no avail to the respondents.

5. The Government Order dated 27.6.1988 laid down the following conditions, which have to be fulfilled in order that the services of Teachers may be continued till the end of academic year. The conditions are as follows:-

(1) he has been actually teaching a particular subject regularly in accordance with the recommendation of the All India Technical Education Service Board;

(i) he has been holding the post of such teacher continuously at/least for three years and his work and conduct has been satisfactory;

(ii) no inquiry against him regarding misconduct and integrity is pending; and

(iii) his health is sound.

There is no averment in the counter affidavit of the respondents nor has been pointed out by their counsel that any of these disqualifications applied in the case of the petitioner.

6. In view of the Government Orders, referred to above, the petitioner is entitled to continue in service till the end of academic sessions i.e. 30.6.2006 when he has to retire from service.

7. Petition allowed. Ordered accordingly. A mandamus is issued directing the respondents to continue him in service upto 30.8.2006.