
(2011) 02 AHC CK 0304
In the Allahabad High Court
Case No : Special Appeal No. 264 of 2011

Saqir Hussain

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 23-02-2011

Acts Referred:

Citation : (2011) 02 AHC CK 0304

Hon'ble Judges : R.K. Agrawal, J;Kashi Nath Pandey, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Present appeal has been filed against the judgment and order dated 27.1.2011, passed by the learned Single Judge whereby the writ petition preferred by the Appellant seeking a direction to the State Respondent to make payment of salary to the Appellant has been dismissed.

2. The Appellant is working as a teacher under the Tri language formula (Tribhasha) in Z.A. Junior Kanya Pathshala Sikarpur, District Bualandshahr since long. The said institution is duly recognised by the Basic Shiksha Adhikari, but it has not received any aid from the State Government. In other words it is an unaided institution. Under the earlier policy which was adopted by the State Government all those persons who were appointed as teachers under the Triple Language Scheme of 1964 were paid salary by the State Government. However with the coming into force of the Sarva Shiksha Abhiyan the salary has been stopped from the State exchequer. The Petitioner approached this Court by means of a writ petition giving rise to the present appeal seeking a direction to the State Respondent for making payment of salary. Learned Single Judge relying upon a Division Bench decision of this Court in the case of State of U.P. and Ors. v. Smt. Anita Tyagi 2010 (6) A.L.J. 257 and the Government Order dated 7.10.2010 issued in this behalf held that the teachers appointed under the Triple Language Scheme of 1964 in an unaided institution like the present one are not entitled for payment of salary from the State exchequer.

3. We have heard Sri A.P. Singh Raghav, learned Counsel for the Appellant, learned Standing Counsel who represents Respondent No. 1 to 4 and perused the impugned judgment and order dated 27.1.2011 passed by the learned Single Judge, giving rise to the present appeal, the grounds taken in the memo of appeal and documents filed along with it.

4. Sri A.P. Singh Raghav, learned Counsel appearing for the Appellant submitted that the Appellant had worked in the institution as Asstt. Teacher Tribhasha (Sanskrit) since long and has been paid salary from the State Exchequer under the Tri language Scheme of 1964. He has contributed his prime and labour during all these years and has now become over age to be absorbed in any institution and the stand taken by the State Respondent in stopping payment of salary from the State exchequer is wholly arbitrary and illegal. He has further submitted that the Division Bench judgment of this Court in the case of State of U.P. v. Smt. Anita Tyagi (supra) nowhere lays down that the teachers appointed under the Scheme of 1964 are not entitled for payment of salary from the State exchequer and on the contrary it has held that the Appellant therefore, can be continued even otherwise if the State Government comes up with the firm and final decision. On this score it has further held that the payment made to such teachers can not be said to have been paid illegally. He thus submitted that the order passed by the learned Single Judge be set aside and a direction be issued to the State Respondent to make payment of salary. We have given our thoughtful consideration to the various pleas raised by the learned Counsel for the Appellant, but regret our inability to accept any of them. It is not in dispute that the institution in which the Petitioner is working as a Assistant teacher does not receive any aid from the State Government. The payment of salary to the Petitioner was being made under the Triple Language Scheme of 1964, which scheme has since been modified by issuance of the Government Order dated 7.10.2010 in which it has specifically been mentioned that in view of the Sarva Shiksha Abhiyan having been adopted sufficient number of schools have been opened in the vicinity of a village and therefore, there is no necessity to continue the scheme and making payment of salary to such teachers in an unaided colleges. Even in the Division Bench of this Court in the case of Smt. Anita Tyagi relied upon by the learned Counsel for the Appellant, the court has specifically mentioned that the State itself has proceeded to continue to make payment of salary and therefore, unless the said policy is altered, modified or reversed such teachers can not be said to have been paid salary illegally. The court had disposed of the aforesaid appeal with liberty to the State Government to take decision in relation to the payment of salary to the teachers appointed under Tri language Formula in an unaided institution. In the light of what has been indicated in the judgment the State Government had issued an order dated 7.10.2010, taking a conscious decision to discontinue the payment of salary from the State exchequer to the teachers appointed under the Tri language Formula in an unaided institution. That being the position we are of the considered opinion that the order dated 27.1.2011 passed by the learned Single Judge does not

suffer from any legal infirmity.

5. The appeal, therefore, fails and is hereby dismissed.