

(2003) 04 AHC CK 0253
In the Allahabad High Court
Case No : C.M.W.P. No. 25324 of 2001

Shailendra Sharma

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 25-04-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 5 AWC 3493

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Ashok Khare, V.K. Shukla and R.K. Porwal, for the Appellant; B.G. Yadav and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Vineet Saran, J.—The Petitioner claims to have been appointed as Assistant Teacher vide appointment letter dated 8.11.1998. It has been stated in Paragraph 12 of the writ petition that the District Inspector of Schools, Etawah granted the approval to such appointment vide order dated 27.11.1998, a copy of which has been filed as Annexure-7 to the writ petition. It has been submitted that despite approval having been granted, the Respondents are not paying salary to the Petitioner and hence, this writ petition.

2. In paragraph 12 of the counter - affidavit filed by the District Inspector of Schools, Auraiya, Etawah, it has been categorically stated that no such approval dated 27.11.1998 as alleged in the writ petition was ever granted by the District Inspector of Schools, Etawah nor was there any record of any such approval letter in the office of the District Inspector of Schools.

3. In view of the categorical denial on behalf of the Respondents, the relief claimed for in this writ petition cannot be granted. Sri Ashok Khare, learned senior counsel appearing on behalf of the Petitioner has submitted that the statement made in the counter-affidavit is wrong and since the despatch number

has been given in the letter and approval dated 27.11.1998, the Respondents ought to have categorically stated as to whether any such communication had been issued on such despatch number on the said date or not. He has further made a request that the despatch register and other relevant record pertaining to the case may be summoned.

4. Having heard learned Counsel for the parties, in my view, the very basis on which the Petitioner is claiming the relief of payment of salary is disputed. It is not possible for this Court to decide whether the letter of approval had been actually issued by the District Inspector of Schools or not. Such controversial question of facts which require appraisal of evidence that may be adduced by the parties, cannot be decided in writ jurisdiction under Article 226 of the Constitution of India. For redressal of such grievances, it is for the Petitioner to approach the appropriate authority or the Court under civil law where the authenticity of the document on the basis of which the claim is being made can be proved.

5. Accordingly, this writ petition is dismissed. However, there shall be no order as to cost.