

(2001) 05 AHC CK 0187

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No"s. 37758 of 1999 and 16818 and 55697 of 2000

Shamshul Zama

APPELLANT

Vs

District Inspector of Schools and Others

RESPONDENT

Date of Decision : 25-05-2001

Acts Referred:

Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 1

Citation : (2001) 3 UPLBEC 2181 : (2001) 3 UPLBEC 2172

Hon'ble Judges : R.K. Agrawal, J

Bench : Single Bench

Advocate : Amar Nath Tiwari and Anil Bhushan, for the Appellant;

Final Decision : Allowed

Judgement

R.K. Agrawal, J.—The Writ Petition No. 37758 of 1999 has been filed by Shamshul Zama challenging the order dated 27.8.99 passed by the District Inspector of Schools, Chandauli, filed as Annexure No. 6 to the writ petition. The District Inspector of Schools had directed the Committee of Management of Gandhi Rashtriya Inter College, Sadalpura, Chandauli, to send the resolution appointing Sri Lalit Mohan Chaturvedi as adhoc officiating Principal of the College.

2. The Writ Petition No. 16818 of 2000 has been filed by Lalit Mohan Chaturvedi challenging the order dated 30.6.99 passed by the Committee of Management, Gandhi Rashtriya Inter College, Sadalpura, District Chandauli, filed as Annexure No. 6 to the writ petition, appointing Shamshul Zama as ad-hoc Principal of the College.

3. The Writ petition No. 55697 of 2000 has been filed by Lalit Mohan Chaturvedi challenging the order dated 16.11.2000 passed by the District Inspector of Schools, Chandauli, whereby the signature of Shamshul Zama has been attested as ad-hoc Principal of Gandhi Rashtriya Inter College, Sadalpura, District Chandauli.

4. I have heard Sri Amar Nath Tiwari, who represents Sri Lalit Mohan Chaturvedi, Sri Anil Bhushan, who represents Sri Shamsul Zama in all the three writ petitions as also the learned Standing Counsel, who represents the State.

5. Admittedly. Shamsul Zama has done Post Graduate Diploma in Zoology. He is working as permanent lecturer in the said College on 1.7.1967. The Post of Principal fell vacant on 30.6.99 on the retirement of Sri Jiyut Prasad Yadav. Sri Lalit Mohan Chaturvedi has done M.A. in Hindi and M.Sc. in Mathematics.

6. The qualification for the post of Principal has been prescribed in Appendix A under Regulation 1 of Chapter II of the Regulations framed under the U.P. Intermediate Education Act, 1921. The said qualification is reproduced as below :

ESSENTIAL

QUALIFICATION

Post	Age	Desirable	No.	& Educational qualification	Training	Experience
					1.	2.
Head of the institution	(1)	Trained	Minimum	M.A. or M.Sc. or M.Com. or M.Sc.		
	30 years (Agrl.)	or any equivalent post-graduate	or any other degree which is awarded by corporate body specified in above mentioned para one and should have at least teaching experience of four years in classes 9 to 12 in any training institute or in any institution or University specified in abovementioned para one or in any degree college affiliated to such University or institution, recognised by Board or any institution affiliated from Boards of other institutions whose examinations are recognised by the Board, or should the condition is also that he/she should not be below 30 years of age.	or (2) First or second class postgraduate degree along with teaching experience of ten years in Intermediate classes of any recognised institutions or third class post-graduate degree with teaching experience of fifteen years.	or (3) Trained post-graduate diploma-holder in science. The condition is that he has passed this diploma course in first or second class and have efficiently worked for 15 or 20 years respectively after passing such diploma course.	Notes.--(1) Assistant teachers having at least second class post-graduate degree and specialised teaching experience of ten years in intermediate classes of a recognised institution may be exempted from training qualifications, (as per the provisions contained in the Act).

(2) Teaching experience includes teaching prior to or after teaching or both.

(3) Higher classes means classes from 9 to 12 and experience of teaching these classes is admissible for the post of Head Master of Intermediate College.

The word "trained" has been explained in Clause 2 of the Appendix A as follows :-

"2. Under it in reference to prescribed qualifications the word "trained" means post-graduate training qualification such as, L.T., B.T., B.Ed., S.C. or M.Ed, of any University or institution as specified in earlier para or any equivalent (Degree or Diploma). It also includes departmental A.T.C. and C.T. with minimum teaching

experience of five years. J.T.C./B.T.C. grade teacher shall also be considered to be C.T. if the has worked in C.T. grade at least for five years."

7. Shamshul Zama has held the qualification of only post-graduate diploma. He is not trained post-graduate diploma. The moot question is as to whether Shamshul Zama can be treated as trained post-graduate diploma holder or not. It had already come up for consideration before this Court in the case of Bansh Lal Sengar v. D.I.O.S. (1989) 1 UPLBEC 425 wherein a Division Bench of this Court had held that the teachers' training certificate was essential for a P.G. Diploma holder for being appointed as Principal. The aforesaid decision was followed by this Court in the case of Sri Jagdish Prasad Sharma v. D.I.O.S., Agra and Ors.. Civil Misc. Writ Petition No. 22221 of 1995. Since Shamshul Zama does not hold the teacher training certificate, he cannot be said to possess a trained post-graduate diploma.

8. Sri Anil Bhushan submitted that in view of the Ordinance No. 19 of 2000 promulgated on 30.12.2000, it is not necessary to hold the minimum qualification for being appointed as ad-hoc Principal of the College. He relied upon Section 3 of the Ordinance by which Section 18 of U.P. Secondary Education Services Selection Board Act, 1982 has been substituted. According to him in view of the aforesaid section, the District Inspector of Schools is entitled to issue an order of appointment to the senior most teacher. Thus, he submitted that Shamshul Zama being the senior most teacher has rightly been promoted as ad-hoc Principal.

9. In reply Sri Amar Nath Tiwari, referred a decision of this Court in Civil Misc. Writ Petition No. 3236 of 2001, Shri Nath Singh v. The Deputy Director of Education (Madhyamik), Vth Region, Varanasi and Ors., decided on 2.2.2001 wherein this Court after following the Division Bench decision of this Court in the case of Dr. Desh Raj Singh v. Sri Pramod Kumar Jindal (Special Appeal No. 810 of 1993, decided on 26.8.94) had been that even a senior most person can not be appointed on ad-hoc basis for the post of Principal unless he holds the prescribed qualification.

10. Having heard learned Counsel for the parties, I find that it is not into dispute consideration that Shamshul Zama does not hold trained post-graduate diploma. He is simply possessed of post-graduate diploma in Zoology. Thus, in view of the Division Bench decision of this Court in the case of Bansh Lal Sengar (supra) and in the case of Sri Jagdish Prasad Sharma (supra), Shamshul Zama is not qualified for being appointed on the post of ad-hoc Principal, since he does not possess the necessary qualification, i.e. trained Post-graduate diploma, he is not entitled for being appointed on the post of ad-hoc Principal as held in the case of Sri Nath Singh (supra). In view of the foregoing discussions the writ petition No. 37758 of 1999 fails and is dismissed. The Writ Petition No. 16818 of 2000 and Writ Petition No. 55697 of 2000 succeed and are allowed. The order dated 16.11.2000 filed as Annexure No. 1 to the writ petition No. 55697 of 2000 is quashed.