

(2004) 01 AHC CK 0037
In the Allahabad High Court
Case No : Writ Petition No. 16 (SS) of 2004

Shiv Kumar Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 13-01-2004

Acts Referred:

Citation : (2004) 3 AWC 1958 : (2000) CriLJ 4172 : (2005) 2 UPLBEC 1384

Hon'ble Judges : N.K. Mehrotra, J

Bench : Single Bench

Advocate : K. K. Singh, for the Appellant; C.S.C., for the Respondent

Final Decision : Dismissed

Judgement

N.K. Mehrotra, J.—Heard the learned counsel for the petitioner and the additional chief standing counsel for the opposite party Nos. 1 to 4.

2. By means of this writ petition the petitioner has challenged the order dated 19.12.2002 passed by the opposite party No. 1 Director of Education (Secondary) as contained in Annexure-1 and he has also sought a relief by way of mandamus commanding to opposite party Nos. 1 to 5 to superannuate Shri Jagdish Prasad Mishra opposite party No. 6 who is working as Principal in Janta Inter College, Amdahi, District Gonda.

3. A perusal of the impugned order goes to show that on the recommendation of the Director of Education, the Governor has granted two years extension of service to, Shri Jagdish Prasad Mishra Principal Janta Inter College, Amdahi, Gonda, in view of the policy of the Government as contained in Government Order No. 1772/15-14 (30) (67)/71, dated 6th May, 1982 and Government Order No. 1599/15-14-86-30 (67) (71), dated 4th December, 1986 and the Government Order No. 2443/15 (13) 91 dated 23rd October, 1991. The opposite party No. 6 Shri Jagdish Prasad Mishra was awarded State Teacher Award and according to the policy of the Government the teachers who are awarded State Teachers Award are allowed to continue for a further period of two years after

the date of superannuation. The petitioner claims himself to be a seniormost teacher in the College. He claims his right to officiate as Principal in case the opposite party No. 6 who has been honoured with a State Award is retired without giving extension of two years service. Further the case of the petitioner is that he was duly selected for the post of Principal by Service Selection Board but at the same time he has admitted in the petition that the selection has been quashed vide order dated 4.11.2003 in Civil Misc. Writ Petition No. 42133 of 1999, Vashist Deo Pandey v. State of U.P. and Ors., by Division Bench of this Court and it has been argued that the opposite party No. 6 cannot take the advantage of this judgment.

4. After hearing the learned counsel for the petitioner, I find that the petitioner claims that he being seniormost has the chance of officiation on the post held by the opposite party No. 6 who has been granted two years extension being a teacher honoured with State Award. I am of the view that no employee has a right or vested right of promotion, what to say the chance of officiation. The same view was taken by the Supreme Court in Chandra Deo Gupta v. The Secretary Government of India 1994 (5) SLR 1 by holding that no employee has right or vested right to the chance of promotion. The case of the petitioner is worse because he claims only a chance of officiation.

5. At the same time the learned counsel for the petitioner has argued that the opposite party No. 6 has been given the State Award after his date of superannuation. Therefore, his services cannot be extended on the basis of the State Award which has been declared after his retirement. I am of the view that this contention has no force because the declaration of the award was in process. The Director of Education had already recommended for the State Award and the matter was pending for declaration only. Since he was already recommended the State Award, he was permitted to continue after the date of retirement and when he was continuing after the date of superannuation, the State Award was declared. In any case the petitioner has no right to challenge the extension of the opposite party No. 6. If he has any grievance, the proper remedy is that he should make a representation to the Government putting forth his grievance against the extension of the opposite party No. 6 and if he makes any representation the Secretary Secondary Education State of U.P. shall take a decision on the representation of the petitioner expeditiously.

6. With the aforesaid observations, the writ petition is dismissed.