
(2011) 11 AHC CK 0019

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 59558 of 2010

Sister M. Noreen A.C.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-11-2011

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 7(C)

Citation : (2012) 1 ADJ 751

Hon'ble Judges : Dilip Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon'ble Dilip Gupta, J.—This petition seeks the quashing of the order dated 30th August, 2010 passed by the State Government by which the claim of the petitioner for extension of service by two years as she had received the National Award has been rejected.

2. The petitioner was initially appointed as an Assistant Teacher in the L.T. Grade in the Kumari Udyan Balika Inter College, Ashok Nagar, Kanpur Nagar (hereinafter referred to as the Institution"), which is a recognised, aided and Minority Institution governed by the provisions of the U.P. Intermediate Education Act, 1921 (hereinafter referred to as the "Act"). The petitioner was subsequently appointed as permanent Head Mistress of the High School and she attained the age of superannuation i.e. 62 years on 1st November, 2009 but continued to work till the end of academic session and retired on 30th June, 2010. During the service period, the petitioner was conferred the National Award for teachers in the year 2005 by the Ministry of Human Resources Development. The Committee of Management of the Institution resolved on 15th June, 2009 to forward the papers of the petitioner to the District Inspector of Schools for extension of service by two years in accordance with the Government Order issued by the State Government. The District Inspector of Schools forwarded the papers to the Joint Director of Education who forwarded them to the Additional

Director of Education. The Director of Education made recommendation to the State Government for sanction of extension of service of the petitioner by two years by his communication dated 17th February, 2010. The State Government sought some clarification and it is stated that as the matter remained pending, the Institution permitted the petitioner to continue to function as the Head Mistress of the Institution. The petitioner also filed Writ Petition No. 48169 of 2010 for a direction upon the Secretary, Department of Secondary Education to take a decision in the matter, which petition was disposed of on 12th August, 2010 with a direction to the Secretary, Department of Secondary Education to ensure that a final decision is taken in the matter expeditiously, preferably within two months. The State Government, however, by the order dated 30th August, 2010 did not find the petitioner suitable for granting extension of service by two years for the reason that during the inspection made by the District Inspector of Schools on 29th July, 2008, it came to his knowledge that the Head Mistress had illegally collected money from the students and utilised it according to her own whims. It is this order dated 30th August, 2010 that has been impugned in the present petition.

3. Sri Ashok Khare, learned Senior Counsel for the petitioner submitted that the impugned order deserves to be set aside as it is contrary to the Government Order governing grant of extension of service to teachers who have been awarded the State or National Awards. It is his submission that even otherwise, the order has been passed without providing any opportunity whatsoever to the petitioner or the Management, particularly when the Director of Education in his communication dated 17th February, 2010 had clearly mentioned that no departmental proceedings were pending against the petitioner. It is also his submission that the report is factually incorrect and if the proposal was to be rejected on the basis of the report submitted by the District Inspector of Schools, then the said report should have been made available to the petitioner so that she could submit her explanation but it was not done.

4. Learned Standing Counsel appearing for the respondents has submitted that u/s 7(C) of the Act, no Head of the Institution shall, directly or indirectly, take or receive any contribution, donation or any other payment in cash or in kind except the fees at the rate specified in any order issued by the State Government and, therefore, when it had been found as a fact by the District Inspector of Schools when he inspected the Institution that the Head Mistress had been collecting additional amount from the students and utilising it according to her own whims, the decision taken by the Committee for not granting extension of service to the petitioner is justified.

5. I have considered the submissions advanced by the learned counsel for the parties.

6. The report submitted by the District Inspector of Schools with regard to the inspection made by him in the Institution is the basis for denying extension of two years' service to the petitioner. The District Inspector of Schools has stated

that it had come to his notice that the Head Mistress of the Institution had been illegally collecting amount from the students and utilising it according to her own whims. There is nothing on the record to indicate that: any action was taken by the Educational Authorities or the Management of the Institution against the petitioner for this alleged act and nor is there anything on the record to indicate that any opportunity was provided to the petitioner to submit explanation to the report submitted by the District Inspector of Schools. When there is a provision for grant of two years" extension of service to a teacher who has been awarded a National Award or State Award, then in the absence of any disciplinary proceedings against the petitioner, it was imperative for the State Government to have confronted the petitioner with the report submitted by the District Inspector of Schools. This apart, as noticed hereinabove, the report is also vague since it does not even mention as to who brought to notice of the District Inspector of Schools that the petitioner had been collecting excessive amount from the students. It is the case of the petitioner that the report is factually incorrect and as there was nothing against the petitioner and time was being taken by the authorities to decide the matter, the Committee of Management of the Institution permitted her to continue in service even after retirement on 30th June, 2010.

7. The decision taken by the State Government on 30th August, 2010 cannot be sustained for the reason that it is based on the adverse report submitted by the District Inspector of Schools but no opportunity was given to the petitioner to submit any explanation against the said report

8. The decision taken by the State Government on 30th August, 2010 is, accordingly, set aside. The matter is remitted to the State Government to re-examine the matter and take a decision expeditiously after affording adequate opportunity to the petitioner and the Management of the Institution. The State Government may also, while deciding the matter, take into account the fact that the petitioner has been permitted to continue to work by the Management even after retirement.

9. The writ petition is, accordingly, allowed to the extent indicated above.