
(2007) 03 AHC CK 0082
In the Allahabad High Court

Smt. Meena Singh

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 15-03-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 3 ADJ 429 : (2007) 6 AWC 6474

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Series of writ petitions have been filed by one Smt. Meena Singh. Details and the fate of 1st Writ Petition No. 5694 of 1988 has not been disclosed by the counsel for the petitioner even today. Writ Petition No. 11299 of 1996 (2nd writ petition) was presented on 29th March, 1996 with the prayer that the District Inspector of Schools may be directed to promote the petitioner in L.T. Grade in terms of the government order, after giving her benefit of continuous employment as approved C.T. Grade Teacher. In the said writ petition an interim mandamus was granted by this Court on 5.4.1996 commanding the District Inspector of Schools to appoint the petitioner as Teacher in L.T. Grade subject to the condition that there exists a vacancy in Tilakdhari Inter College, Jaunpur or to show cause by filing counter affidavit. However, the writ petition was ultimately dismissed on 9.8.1996 on a statement made by the counsel for the petitioner to the effect that the same has become infructuous because of subsequent development. The interim mandamus issued on 5.4.1996 was also vacated.

2. In paragraphs 2, 3 and 4 of the said writ petition it was stated that the petitioner was initially appointed as C. T. Grade Teacher in the institution with the approval of the District Inspector of Schools on 8.2.1988. Since she was not being paid salary, she filed writ petition, being Writ Petition No. 5694 of 1988 (1st writ petition), before this Court where under an interim order was passed on

25.2.1988. A copy of the interim order was also enclosed as annexure-2 to the writ petition. Petitioner claimed that the vacancy against which she was granted ad hoc promotion was caused due to promotion of one Sri Raja Ram Singh and since Sri Raja Ram Singh has been regularized as L T. Grade Teacher on 6.4.1991, services of the petitioner in C.T. Grade also stood regularized from the same date as per the order of the District Inspector of Schools dated 12th August, 1994. Petitioner had made an application for being promoted as L.T. Grade Teacher against another vacancy. However, since C.T. Grade has been declared as dying cadre, petitioner has also become a L.T. Grade Teacher.

3. Smt. Meena Singh filed third writ petition, being Writ Petition No. 27782 of 1999 with the following prayers (through same counsel):

(i) issue a writ, direction or order in the nature of certiorari quashing the order dated 23.6.99/24.6.99 filed as Annexure "10" to the writ petition along with the order dated 2.6.98 filed as Annexure "9" to the writ petition.

(ii) to issue a writ, direction or order in the nature of mandamus commanding and directing the respondents not to interfere in the working and functioning of the petitioner as lecturer in Sanskrit in the Institution and also to pay arrears of salary along with future month to month salary as and when it falls due.

4. In paragraph 13 of the said third writ petition reference has been made to Writ Petition No. 2370 of 1996. The number whereof has been wrongly mentioned, as has been admitted by the counsel for the petitioner, its correct number is 11299 of 1996 (also see amendment application dated 8th September, 2006).

5. In paragraph 14 of this third writ petition it has been stated as follows:

That it may be stated here that the aforesaid writ petition is still pending.

6. The said writ petition was presented before the Court on 9th July, 1999 and an interim order was granted by this Court on 12.7.1999 (statement made in paragraph 14 of the third writ petition is patently false as Writ Petition No. 11299 of 2006 had been dismissed on 9.8.1996).

7. Smt. Meena Singh filed another writ petition (through the same counsel) on 10th October, 2000, being Writ Petition No. 43454 of 2000 (4th writ petition) with practically the same reliefs as were asked for in 3rd petition and which are quoted herein below:

(i) to issue a writ, order or direction in the nature of certiorari quashing the order dated 19.8.2000 passed by respondent No. I directing the committee of management not to appoint respondent No. 4 as lecturer in the institution.

(ii) to issue a writ, order or direction in the nature of mandamus commanding and directing the respondents not to interfere in the working and functioning of the petitioner on the post of lecturer in Sanskrit for which papers have been sent to the District Inspector of Schools by the committee of management effecting the promotion and passing consequential orders.

8. Both the aforesaid writ petitions were clubbed together and decided under a common judgment and order of this Court dated 12th October, 2000 with a direction upon U.P. Secondary Education Services Selection Board to decide the controversy raised qua the appointment of respondent No. 4 namely Sri Ayodhya Prasad recommended for direct appointment as Sanskrit Lecturer by the U.P. Secondary Education Services Selection Board, Allahabad for the institution before giving effect to his appointment. The Secretary in compliance of the orders of this Court passed an order dated 13.06.2001. Under the order the Secretary held that, on the date vacancy was caused on the post of Lecturer Sanskrit, there was no teacher possessed of prescribed qualifications i. e. 5 years teaching experience in L.T. Grade for promotion as Lecturer. It was further recorded that Smt. Meena Singh had been granted L.T. Grade on completing 10 years of service w.e.f. 26.7.1997 only. Lastly it was recorded that the vacancy was rightly requisitioned for direct recruitment within the quota prescribed, the selected candidate Sri Ayodhya Prasad must accordingly be appointed.

9. Smt. Meena Singh thereafter filed another writ petition (5th writ petition), being Writ Petition No. 25432 of 2001, through the same counsel challenging the order passed by the Secretary, U.P. Secondary Education Services Selection Board dated 13th June, 2001. This writ petition was presented before this Court on 1st July, 2001. No interim order was granted in the said petition, and is pending as of date.

10. On 8th September, 2006 an amendment application has been filed by Smt. Meena Singh stating therein that the figure 2370 of 1996 mentioned in paragraph No. 7 of the Writ Petition No. 25432 of 2001 be deleted and substituted by figure 11299 of 1996. A logical consequence of such a correction is that the petitioner in paragraph 14 of Writ Petition No. 12782 of 1999 made a deliberate misstatement of fact, inasmuch as Writ Petition No. 11299 of 1996 was dismissed by this Court on 9.8.1996 on a statement made by the same counsel of the petitioner.

11. Smt. Meena Singh thereafter filed Writ Petition No. 46787 of 2006 (6th writ petition) through same counsel. The relief prayed for in this writ petition reads as follows:

(i) to issue a writ of mandamus, order or direction in the nature of mandamus commanding and directing the District Inspector of Schools and the Committee of Management to do fixation of the salary of the petitioner in lecturer's grade;

(ii) to issue a writ of mandamus, order or direction in the nature of mandamus commanding and directing the District Inspector of Schools and the Committee of Management of the institution and also Principal of the institution to do fixation of the salary of the petitioner in lecturer's grade and to release the same and proper salary bill regarding payment of salary to the petitioner in lecturer's grade be got submitted in the office of the District Inspector of Schools since 27.1.2005.

12. It is also worthwhile to mention that the present writ petition makes absolutely no mention about the earlier writ petitions filed by the petitioner and in paragraphs 3, 4 and 5 it has been stated as follows:

3. That initially the petitioner was appointed in the institution in the year 1987 on the post of CT grade. The petitioner's appointment was duly approved by the District Inspector of Schools Jaunpur. True copy of the approval order accorded by the District Inspector of Schools Jaunpur dated 7.2.1988 is being filed herewith and marked as Annexure-1 to this writ petition.

4. That it may be stated here that subsequently a vacancy on the post of lecturer in Sanskrit arose in the institution of the petitioner and the petitioner was promoted on the post of lecturer in Sanskrit. The District Inspector of Schools also approved the salary of the petitioner while working on the post of ad hoc lecturer in Sanskrit. True copy of the order of the District Inspector of Schools Jaunpur dated 20.5.1998 is being filed herewith and marked as Annexure-2 to this writ petition.

5. That it may be stated here that the post of Sanskrit lecturer in this institution falls within 50% quota for promotion. The committee of management promoted the petitioner on the post of lecturer in Sanskrit. Although this was made as ad hoc subject for confirmation by the Secondary Education Services Commission for permanent promotion, for which papers have been sent by the Committee of Management.

13. There after in paragraph 6 it has been stated that the District Inspector of Schools wrote a letter dated 3.11.2003 to the Joint Director of Education for approval of the promotion of the petitioner as Lecturer Hindi under 50% quota. The Joint Director of Education, Varanasi Region, Varanasi in his order dated 27.1.2005 records the following facts:

The District Inspector of Schools, Jaunpur vide his letter dated 17.1.2005 has informed that Smt. Meena Singh has been promoted within the 50% quota on the post of Lecturer Hindi, vacancy whereof is said to have been caused due to retirement/termination/resonation of one Sri Sarhajor Ram Prajapati. who was earlier working as lecturer Hindi.

14. It may be repeated that the Secretary in his order dated 28.5.2001, as communicated under the covering letter dated 13th June, 2001 (annexure-1 to the Writ Petition No. 25432 of 2001), had recorded that the petitioner Smt. Meena Singh has been granted L.T. Grade on completing 10 years of service only on 26.7.1997 and therefore she had not completed 5 years of service as L.T. Grade Teacher for being considered for promotion as Lecturer Sanskrit, vacancy whereof was caused on 1.7.1995. The said order still holds good, inasmuch as in the writ petition filed by Smt. Meena Singh, being Writ Petition No. 25432 of 2001 had not been granted any interim order, nor the writ petition has been admitted by this Court till date.

15. The aforesaid finding leads to one conclusion that on the date the second vacancy on the post of Lecturer Hindi is said to have been caused in the institution (as per the decision of the Regional Joint Director of Education dated 27.1.2005 (Annexure-5 to Writ Petition No. 46787 of 2006) i.e. 13th June, 2001 with the retirement/termination/resignation of Sahajor Ram Prajapati. The petitioner had still not completed 5 years of continuous service as L.T. Grade Teacher and therefore she could not have been considered for promotion in view of Rule 14 of the U.P. Secondary Education Services Selection Board Rules, 1998.

16. This Court may record that the findings recorded in the impugned order by the Regional Joint Director of Education are based on incorrect facts as stated in the letter of the District Inspector of Schools, Jaunpur, and are an attempt to over reach the proceedings which were pending before this Court in Writ Petition No. 25432 of 2001, filed by Smt. Meena Singh herself. The Regional Joint Director of Education as well as District Inspector of Schools, Jaunpur are party to the said writ petition and notices on their behalf had been accepted by the Standing Counsel. Deliberately no material facts in respect of the pendency of aforesaid writ petition as well as in respect of the earlier writ petition filed by Smt. Meena Singh have been mentioned while passing the order dated 27.1.2005 and dated 14.3.2005 by the Regional Joint Director of Education and the District Inspector of Schools concerned. The fate of the said first writ petition has not been disclosed even today by the counsel for the petitioner.

17. Section 16 of the U.P. Secondary Education Services Selection Board Act, 1982 declares appointment made contrary to the provisions of the U.P. Secondary Education Services Selection Board Act and Rules framed there under as null and void. This Court may further record that there has been deliberate suppression of material facts as well as incorrect statement of facts by the petitioner, who has filed all the writ petitions through the same counsel. Such deliberate misstatement of facts/deliberate concealment of facts may again be highlighted.

(a) Fate of first Writ Petition No. 5694 of 1988 and the interim order dated 25.2.1988 has not been disclosed till date.

(b) Statement made in paragraph 14 of Writ Petition No. 27782 of 1999, to the effect that Writ Petition No. 2370 of 1996 (now corrected to read as Writ Petition No. 11299 of 1996) was pending on 9th July, 1999, is a misstatement of fact in the knowledge of the petitioner as well as her counsel, inasmuch as Writ Petition No. 11299 of 1996 was dismissed on 9.8.1996 on a statement made by the same counsel for the petitioner.

(c) There has been deliberate suppression of the material facts (i) with regard to filing and outcome of the Writ Petition No. 27782 of 1999, Writ Petition No. 43454 of 2000 and Writ Petition No. 25432 of 2001, in the sixth writ petition filed by Smt. Meena Singh through the same counsel (ii) the order passed by the High Court dated 12.10.2000, (iii) the order passed by the Secretary dated 13.6.2001.

18. Suppression of the aforesaid facts is deliberate and an attempt to interfere in the administration of justice. Such acts of the petitioner, who was in knowledge of all the aforesaid proceedings, amount to criminal contempt in view of the judgment of the Hon'ble Supreme Court in *Dhananjay Sharma Vs. State of Haryana and Others*, *The Secretary, Hailkandi Bar Association Vs. State of Assam and Another*, ; *The Secretary, Hailakandi Bar Association v. State of Assam and Anr.*

19. In the circumstances, as noticed herein above, all the writ petitions filed by Smt. Meena Singh are liable to be dismissed on the ground of concealment of material facts as well as misstatement of facts. She has not approached the Court with clean hands and therefore is not entitled to equitable relief under Article 226 of the Constitution of India. The conduct of the District Inspector of Schools, Jaunpur as well as Regional Joint Director of Education also needs scrutiny by the Secretary, Secondary Education, U.P. Government, Lucknow in respect of the orders passed by them dated 27.1.2005 and dated 14.3.2005 respectively.

20. Photostat copy of the records of all these writ petitions as well as a copy of this order may be transmitted to the Secretary, Secondary Education, U.P. Government, Lucknow, who shall hold a detail enquiry into the matter and shall take all appropriate action in respect of civil as well as criminal liabilities, which may arise because of such incorrect and illegal orders having been passed by the authorities. The beneficiaries and the persons participating in such frauds; namely the petitioner and the Committee of Management must also be brought to book. The aforesaid exercise may be completed by the Secretary within six weeks from the date the records are made available to him. A compliance report may be submitted before the Court through Registrar General, High Court of Judicature at Allahabad within 8 weeks.

21. This Court further feels it proper that records of all these writ petitions be placed before the Division Bench, hearing criminal contempt petitions, for appropriate proceedings, as may be necessary in the interest of justice.

22. These two writ petitions are dismissed with cost of Rs. 10,000/- (ten thousand). The cost so imposed must be deposited by the petitioner through a bank draft drawn in favour of Registrar General of this Court within one month from today. Failing which the District Magistrate, Jaunpur shall ensure recovery of the said amount of Rs. 10,000/- as arrears of land revenue and shall transmit the money collected to the Registrar General. The cost so recovered shall be placed in the Accounts of the High Court Legal Services Committee, Allahabad.