
(2018) 11 UK CK 0194

In the Uttarakhand High Court

Case No : Special Appeal No. 52 Of 2015, Restoration Application No. 1481 Of 2018

Smt. Sangeeta Gupta

APPELLANT

Vs

Director, School Education & Others

RESPONDENT

Date of Decision : 20-11-2018

Acts Referred:

Uttarakhand School Education Act, 2006 — Section 41

Citation : (2018) 11 UK CK 0194

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Singh, J

Bench : Division Bench

Advocate : Alok Mahra, Vikas Pandey, Parikshit Saini

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, C.J.

Restoration Application No. 1481 of 2018:

1. The learned counsel, appearing for the respondents, expresses no objection to the Application for restoration to be allowed, and for the appeal to be restored to file. The Application is, therefore, ordered and the Special Appeal is restored to file.

Special Appeal No. 52 of 2015:

2. This appeal is preferred against the order passed by the learned Single Judge in Writ Petition (S/S) No. 435 of 2007 dated 19.11.2014.

3. The appellant-writ petitioner is aggrieved by the order passed by the District Education Officer, Haridwar dated 07.04.2007, and the consequential order dated 20.04.2007 passed by the Principal of the subject College, whereby the service of the writ petitioner, as Parent Teachers' Association Teacher (hereinafter referred to as the "PTA Teachers"), was dispensed with.

4. In terms of the Government Order dated 20.09.2003, the PTA Teachers, appointed prior to 05.09.2003, were paid honorarium of Rs. 4,000/- per month from the State Government which, according to Mr. Alok Mahra, learned counsel for the appellant, was later enhanced to Rs. 15,000/- per month. However based on certain observations made by the Lokayukta, which the writ petitioner claims was behind her back and without giving her an opportunity of being heard, her services, as PTA Teacher, were dispensed with by order dated 07.04.2007.

5. The learned Single Judge has, in the order under appeal, observed that the writ petitioners were not holding a civil post; their appointment was purely temporary in character; there were serious charges against the writ petitioners, as one of them was working in a College between 12.10.2001 and 30.06.2004; there were allegations regarding qualifications; the writ petitioners never worked before 05.09.2003; and, therefore, in terms of the Government Order dated 20.09.2003, they were not liable to be given honorarium, as honorarium was required to be paid only to those PTA Teachers who were working prior to 05.09.2003. While holding that no interference was called for, the learned Single Judge directed the District Education Officer to initiate proceedings for filling-up the regular posts of Teachers, in the respondent-College, by way of regular appointment.

6. Section 41 of the Uttarakhand School Education Act, 2006 relates to ad-hoc appointment of part-time Teacher / Acting PTA Teachers by the Committee of Management and, thereunder, the Committee of Management is required to appoint, on an ad-hoc basis, such part-time Teachers / PTA Teachers as are employed upto 05.09.2003 by the Committee of Management from its own resources, for which substantive posts were created at the time, and who possessed the qualification prescribed for the corresponding posts, and who were paid honorarium from Government funds. While Section 41 obligates the Committee of Management to appoint PTA Teachers on an ad-hoc basis, it does appear that substantive posts were created at that time and those, who were employed upto 05.09.2003, were paid honorarium by the Government. Section 41 does not also confer any right on the persons, appointed as PTA Teachers, to claim that they are entitled to continue as PTA Teachers, since such appointment of PTA Teachers is required to be made by the Committee of Management and not by the Government, and that too on an ad-hoc basis.

7. We find no error in the order under appeal rejecting the appellant's claim for continuance in the said post. The learned Single Judge has directed the respondents to fill-up the vacant posts of Teachers. Suffice it, while dismissing the appeal, to make it clear that the order under appeal shall not disable the appellant, if she possesses the requisite educational qualification, from participating in the selection process for appointment of regular Teachers in the subject Institution. The official respondents shall also consider, in accordance with law, whether the appellant-writ petitioner should be extended the benefit of age relaxation to enable her to participate in the selection process.

8. Subject to the aforesaid observations, the appeal fails and is, accordingly, dismissed. No costs.