

(2004) 05 AHC CK 0045
In the Allahabad High Court
Case No : Special Appeal No. 459 of 2004

Smt. Savita and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-05-2004

Acts Referred:

Uttar Pradesh Basic Education (Teachers) Service Rules, 1981 — Rule 8

Citation : (2004) 4 AWC 3569

Hon'ble Judges : R.S. Tripathi, J;M. Katju, J

Bench : Division Bench

Advocate : Ashok Khare and P.N. Ojha, for the Appellant;

Final Decision : Dismissed

Judgement

M. Katju, J.—This appeal has been filed against the judgment of the learned single Judge dated 17.3.2004 in Writ Petition No. 10700 of 2004.

2. We have heard the learned counsel for the parties and have carefully perused the judgment of the . learned single Judge.

3. The recruitment to the post of Assistant Teacher in the Junior Basic Schools and Senior Basic Schools in the State are governed by the provisions of U. P. Basic Education (Teachers) Service Rules 1981. Rule 8 of these rules prescribed that the candidate possessing Basic Teachers Certificate, Hindustani Teacher Certificate, Junior Teacher Certificate or any other training course recognised by the State Government as equivalent thereto is entitled to appointment as Assistant Teacher. The rule does not provide for any process of selection either in the form of written examination or interview.

4. Learned counsel for the appellant submitted that there are a large number of vacancies of Assistant Teachers in junior basic schools all over the State lying vacant. At present no training is being imparted for the certificate known as Hindustani Teachers Certificate or Junior Teachers Training Certificate and that the Basic Teachers Training Certificate course is run by the State Government.

Admission to the basic teacher training certificate is effected on the basis of an annual entrance examination conducted by the Registrar, Departmental Examination, U. P. and the selected persons are trained in the district institute of education and training located in each of the districts for undergoing the B.T.C. training course. Each year almost 100 admissions are given for B.T.C. training course in each of the district. However, the number of candidates passing every year is wholly insufficient to meet the requirement of teachers in junior basic schools and the number of vacancies are far in excess of the number of B.T.C. candidates available for appointment.

5. The State Government issued a Government order dated 14.1.2004 notifying the selection for Special B.T.C. Training course of 46189 candidates possessing B.Ed./L.T. Training certificate for undergoing requisite training to fill up these vacancies. An advertisement was issued by the Director, State Council for Educational Research and Training on 22.1.2004 inviting applications from those who are eligible under the Government order dated 14.1.2004. Against the Government order dated 20.2.2004 a large number of petitions were filed in this Court, and as a consequence the State Government reconsidered the matter and while extending eligibility to the candidates who possess Bachelor of Physical Education Certificate, Certificate of Physical Education and Diploma in Physical Education as eligible for consideration, increased, the upper age limit to 40 years as on 1.7.2000 and issued a fresh advertisement on 22.2.2004 inviting applications up to 15.3.2004.

6. The B.Ed. Degree obtained by the appellants, are through correspondence course either from Chaudhary Charan Singh University, Meerut or from Maharshi Dayanand University, Rohtak. The appellants 7 to 12 and 13 to 15 have passed B.Ed, course as regular students. While appellants 12 and 13 have passed this course from Garhwal University as regular student, appellant No. 14- has passed L.T. Training certificate.

7. They are aggrieved against the judgment of the learned single Judge by which he has rejected their prayer to give them preference in accordance with the year of obtaining teachers training qualification.

8. Learned counsel for the appellants submitted that in the recruitment preference is to be given to the candidates who have passed B.T.C. Training course in earlier years over the candidates who have passed training course in subsequent year. This principle can be spelt out from the U. P. Basic Education Teachers Service Rules, 1981. He submits that special B.T.C. Training course is in fact selection in recruitment of teachers on monthly stipend commencing immediately on joining the training and to continue till such point of time the actual appointment is granted, and only those candidates who possess the same teacher training qualification are entitled for consideration in pursuance of the Government orders dated 14.1.2004 and 22.2.2004. According to the learned counsel for the appellants, there is no justification for departing from the norms prescribed under the 1981 Rules for affording yearwise preference in selection,

and in the districts which have now been included in the State of Uttaranchal such year wise preference has been given in granting admission from amongst the candidates possessing some other teachers training qualifications.

9. We have given thoughtful consideration to the submission. Rule 8 of the U. P. Basic Education (Teachers) Service Rules, 1981 does not provide for any order of preference of appointment on the basis of the year in which a candidate possesses B.T.C. qualification. The essential qualification of a candidate for appointment has been provided in Rule 8. A Bachelor's degree from a University established by law in India or a degree recognised by the State Government as equivalent thereto together with the training qualification prescribed under the Rule is the academic qualification prescribed for appointment to the post of Assistant Master and Assistant Mistress of Junior Basic Schools. There is no statutory provision either under the U. P. Basic Education Act, 1972 or Rule of 1981 in support of the submission that the appointment must be given by giving preference to those B.T.C. trained candidates by giving them year wise preference.

10. Learned counsel for the appellant submitted that in the past the department has been following the practice of giving appointment by giving year wise preference to the B.T.C. trained candidates and that in the districts falling in the State of Uttaranchal such preference is also given to the candidates possessing some other teacher training certificate.

11. While disposing of Writ Petition No. 5452 of 2004 along with the connected writ petitions by Judgment dated 5.3.2004 the learned single Judge has given the background in which the special B.T.C. course was designed and had been approved by the National Council of Education established under the National Council of Teachers Education Act, 1993. There were a large number of vacancies in the basic schools in U.P. The B.T.C. candidates made available by the district institutes of education and training every year were inadequate to the requirement. In order to give training in basic education to the candidates possessing some other teachers training certificate the special B.T.C. course was provided. The National Council of Teachers Education granted approval to this subject to certain conditions mentioned in the judgment dated 5.3.2004 in Writ Petition No. 5452 of 2004. These conditions extended the course to six months and restricted admission to any district institute of education and training to 100 candidates in each batch. The courses and the examination were to be held under the supervision of S.C.E.R.T. It was required to develop a detailed curriculum for the programme including a scheme of examination to conduct physical examination and issue certificates to the successful candidates.

12. We do not find any substance in the submission of learned counsel for the appellant that persons must be given appointment by giving year wise preference on the basis of their other training qualification. Firstly, these other training qualifications are not the statutory minimum academic qualifications for the post of Assistant Teacher, Only those persons who hold the minimum

qualification are entitled for appointment and as such any other qualification cannot be recognised or given preference for appointment. Secondly, all those candidates successfully completing special B.T.C. course 2004 have to be engaged subject to the vacancies, provided they complete the course. The Rules of 1981 as amended in 1997 do not provide for any year wise preference in appointments, as held by us in our judgment in Special Appeal No. 461 of 2004, Devendra Singh and Ors. v. State of U. P., decided by us today.

13. We endorse the recommendation of the learned single Judge that instead of providing for special B.T.C. course the State Government should have increased the capacity of the district institutes of education and training for filling upon the vacancies which are arising every year. The special programmes are substitutes for the general programme, and where the Government finds lack of infrastructure adequate emphasis should be given to increasing the infrastructure rather than making special programme for the persons who have other teacher training qualifications. We recommend to the State Government to increase the capacity of every institute of education and training to meet the requirements of the large number of posts falling vacant every year.

14. In view of the above we uphold the order of the learned single Judge. The appeal is dismissed.