
(1997) 07 AHC CK 0107

In the Allahabad High Court

Case No : C.M.W.P. No. 10068 of 1991 and other 38 Writ Petitions

Suleman Khan and another

APPELLANT

Vs

Basic Shiksha Parishad, Allahabad and others

RESPONDENT

Date of Decision : 14-07-1997

Acts Referred:

Citation : (1998) 1 AWC 93

Hon'ble Judges : R.H. Zaidi, J

Bench : Single Bench

Advocate : V.B.L. Srivastava, for the Appellant; K.S. Shukla and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

R.H. Zaidi, J.—Heard learned counsel for the petitioners and learned counsel appearing for the respondents.

2. In all these petitions, the question regarding the determination of seniority of the teachers serving in the Basic Schools run by the Basic Shiksha Parishad. Uttar Pradesh is involved.

3. It appears that claim petitions were decided by the U. P. Public Service Tribunal vide its order dated 10.12.1987. Aggrieved by the said judgment and order passed by the Tribunal, these petitions have been filed. Petitions were also filed earlier by similarly situated persons. Some of the petitions were allowed by this court vide its judgment and order dated 7.3.1991. Validity of the Judgment and order passed by this Court was challenged before the Supreme Court by the V. P. Basic Shiksha Parishad and another. Civil Appeal Nos. 5278 to 5282 of 1992 were ultimately decided by the Apex Court of the country by judgment and order dated 7.12.1992. U.P. Basic Shiksha Parishad and another v. Hari Deo Mani Tripathi and others, 1993 (2) ESC 33 (SC). In the said case, it was ruled by the Supreme Court as under : "Historically, as we have noticed earlier, untrained Assistant Teachers" used to be employed when trained teachers were not

available and the untrained Assistant Teachers became trained Assistant Teachers only on their getting requisite certificate of training and from that date only they were treated as regular Assistant Teachers getting the proper scale of pay meant for them. It is the trained Assistant Teacher who alone was eligible for promotion to the post of Headmaster. There were three scales even for trained Assistant Teachers and it was trained Assistant Teacher in the higher scale who were eligible for being promoted as Headmaster. When the 1981 Rules came into force the writ petitioners had by then become trained Assistant Teachers and as such under Rule 22 only the date of appointment as trained Assistant Teacher in a substantive capacity is to be seen and not the date of appointment as untrained Assistant Teacher."

After recording the aforesaid finding, the said appeals were ultimately allowed.

4. The controversy in the present cases is exactly the same which was dealt with and decided by Hon"ble the Supreme Court in the case of U. P. Basic Shiksha Parishad v. Hari Deo Mani Tripathi (supra). Seniority of teachers, therefore, is now to be determined in accordance with the judgment and order passed by Hon"ble the Supreme Court in the aforesaid case.

5. The respondents are, therefore, directed to decide the seniority of the teachers working in the Basic Schools run by U. P. Basic Shiksha Parishad in accordance with the Judgment and order passed by Hon"ble the Supreme Court in the aforesaid case within a period of two months from the date of certified copy of this order is produced before the respondent No. 2.

6. With the aforesaid observations and directions these petitions are disposed of finally.