
(1995) 05 AHC CK 0031

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 11492 of 1995

Umrao Prasad

APPELLANT

Vs

D.I.O.S., Fatehpur and Others

RESPONDENT

Date of Decision : 01-05-1995

Acts Referred:

Uttar Pradesh Secondary Education Services Commission and Selection Boards Rules, 1983 — Rule 9B

Citation : (1995) 05 AHC CK 0031

Hon'ble Judges : S.R.Singh, J

Final Decision : Dismissed

Judgement

S. R. Singh, J.—Heard learned counsel for the petitioner. The dispute pertains to appointment in the post of Lecturer (Civics) which fell vacant due to death of permanent incumbent Sri Gyanendra Pratapon 1161993 The Committee of Management passed resolution in its meeting held on 2311994 giving ad hoc promotion to respondent Pradeep Kumar Sachan The District Inspector of Schools approved of the said resolution vide his letter dated 1031995.

2. Learned counsel for the petitioner urged that the petitioner being the senior most teacher in L. T. Grade was entitled to be given ad hoc promotion and to Committee of Management was not justified in giving ad hoc promotion to the respondent Pradeep Kumar Sachan. According to the learned counsel for the petitioner ; the vacancy for the purposes of ad hoc appointment/promotion would be deemed to have occurred when the Committee of Management took up the matter for appointment/promotion after expiration of 60 days" period stipulated in Section 18 of the U. P. Secondary Education Services Commission, 1982. In support of his contention learned counsel for the petitioner has placed reliance on Division Bench decisions in Hans Raj Singh v. U. P. Secondary Education Services Commission Allahabad (1990) 2 UPLBEC 1127 and Nand Kishore v. U. P. Secondary Education Services Commission, (1993) 1 UPLBBC 201.

3. The submissions made by the learned counsel for the petitioner were

reasonably and plausibly acceptable, particularly in view of the Division Bench decisions aforesaid. But the Legislature by means of the Notification dated 16/11/1992 published in U. P. Gazette Part I No. 491/1993 has inserted Rule 9B in the U. P. Secondary Education Services Commission Rules, 1983. Rule 9B of the Rules provides in no uncertain language that Management shall, in respect of the vacancies to be filled by promotion, consider cases of such teachers who are working in the trained graduate (L. T. Grade) or certificate of teaching (C. T. Grade) and possessed of qualification proscribed under the U. P. Intermediate Education Act, 1921 or Regulations made thereunder and have put at least five years continuous service as such on the date of occurrence of vacancy for promotion to the post of Lecturer or trained graduate (LT. Grade), as the case may be, on the basis of seniority subject to rejection of unfit even their having not applied for the same. The decisions relied upon by the learned counsel for the petitioner were rendered at a time when Rule 9B was not on the Statute Book, for the face of Rule 9B it is difficult to accept the contention of the learned counsel for the petitioner that for purposes of ad hoc promotion relevant date for acquisition of eligibility is the date on which the Committee of Management decides to make appointment. The Division Bench decisions referred to above were concerned with the cases of appointment/promotion made prior to insertion of Rule 9B in the Rules.

4. The petitioner was admittedly not possessed of M. A. Degree in Civics on the date of occurrence of the vacancy that is to say on 11/6/1993. The view taken by the Committee of Management and the District Inspector of Schools in the matter does not suffer from any manifest error of law warranting interference under Article 226 of the Constitution.

5. The petition lacks merit and is accordingly dismissed in limine.