
(2010) 07 UK CK 0100
In the Uttarakhand High Court

Vijay Prasad Joshi

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 05-07-2010

Acts Referred:

Citation : (2010) 07 UK CK 0100

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Verma, J.—Heard learned Counsel for the parties and perused the record including the memo of petition and the counter affidavit.

2. By means of this writ petition, the petitioner has sought a writ in the nature of mandamus directing the respondents to adjust/appoint the services of the petitioner on the post of Shiksha Mitra in the upgraded guarantee center Koradhar-Naldhura, District Chamoli as per Government Order dated 28-6-2006, 15-12-2006 and to pay him the salary month to month.

3.The petitioner was appointed as Shiksha Anudeshak at Education Guarantee Centre Koradhar-Naldhura. The petitioner claims that by Government Order dated 28-6-2006, the Shiksha Acharya or Shiksha Anudeshak, who were working in a particular education guarantee center would be automatically deemed to have got the status of Shiksha Mitra on the center being upgraded to Primary School and the petitioner would be required to get graduation degree within a period of three years. The petitioner also claims that as per G.O. dated 15-12-2006, in the upgraded primary school, one of the post of Shiksha Mitra will be made available to the Shiksha Acharya/Anudeshak already working in the said Education Guarantee Centre.

4. The grievance of the petitioner is that the petitioner is not being given the benefit of Government Order dated 28-6-2006 and 15-12-2006 and he had not been paid any salary after the up-gradation of the Education Guarantee Centre

as Government Primary School.

5. On behalf of the respondents, counter affidavit has been filed. It is stated in paragraph 3-D thereof as under:

D. That the said institution was upgraded in the year 2008-09 as Government Primary School and in the aforesaid upgraded school two posts of trained Assistant Teachers have been created vide Government order No. 100/XXIV(1) 2008-37/2006 Education Department-1 (Basic), Dehradun dated 4-11-2008, no post of Shiksha Mitra has been created. Consequently Additional District Education Officer (Basic)/District Project Officer, Education to All, Chamoli vide its letter No. 5899-5906/Na.Pra. Vi./2008-09 dated 29-1-2009 directed the concerned Block Education Officer to arrange a regular assistant teacher in the upgraded Education Guarantee Centre (Govt. Primary School) and accordingly the Block Education Officer appointed a regular assistant teacher in the aforesaid upgraded new Government Primary School who is regularly working in the aforesaid school.

6. In the course of arguments, learned Brief Holder appearing for the State has submitted that similar controversy as involved in the present writ petition had arisen in Writ Petition No. 41 of 2010(S/S), Bala Dutt Sharma v. State of Uttarakhand and Ors. and the present writ petition is squarely covered by the order dated 2-6-2010 passed by this Court. Learned Counsel for the State has urged that his petition may be dismissed in terms of the order dated 2-6-2010.

7. I have perused the order dated 2-6-2010 passed by this Court in Writ Petition No. 41 of 2010(S/S), Bala Dutt Sharma v. State of Uttarakhand and Ors. and it has been held by the learned Single Judge of this Court that once a school has been upgraded as a primary school, teachers are required to be appointed under the provisions of the Act. I am of the view that the controversy involved in the present writ petition is almost identical and the same stood resolved by the order dated 2-6-2010.

8. The writ petition is dismissed in terms of the order dated 2-6-2010 passed by this Court in Writ Petition No. 41 of 2010(S/S), Bala Dutt Sharma v. State of Uttarakhand and Ors.. The interim order dated 28-4-2009 is vacated. However, it is made clear that in the event the petitioner has worked either as Shiksha Anudeshak or as a Shiksha Mitra after up-gradation of the Education Guarantee Centre to a Government Primary School, pursuant to interim order of this Court, referred to above, he would be entitled to the honorarium of Shiksha Mitra as per Government Order dated 15th May 2006 as modified by subsequent Government Orders.