

(2009) 07 AHC CK 0372

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No., 10254 of 1994

Virendra Singh

APPELLANT

Vs

District Inspector of Schools, Deoria & Ors.

RESPONDENT

Date of Decision : 30-07-2009

Acts Referred:

Uttar Pradesh High School and Intermediate Colleges (Payment of Salary to Teachers and Other Staff) Act, 1971 — Section 5

Citation : (2009) 07 AHC CK 0372

Hon'ble Judges : Rakesh Tiwari, J

Judgement

1. Heard learned counsel for the parties and perused the record.
2. Manas Inter College, Fatehpur District Deoria (hereinafter called as "the College") is a recognized Institution by U.P. Intermediate Education Act, 1921. Salaries to its teachers and other employees are paid under the provisions of U.P. High School and Intermediate College (Payment of Salaries and Teachers and Other Employees) Act, 1971.
3. It appears that a short term vacancy of lecturer in Civics arose on account of ad hoc promotion of Sri Ram Naresh as Principal in the institution, which was intimated to the DIGS, Deoria on 521993 and was notified by the college for filling up the said vacancy for which the petitioner had applied and was appointed as lecturer in Civics. However, approval to the appointment of the petitioner was not granted by the DIOS, Deoria, hence, he has filed the present writ petition with the prayer that a direction may be issued to the respondents to pay his entire salary and current salary as and when it falls due. Further prayer has been made for issuance of any writ, order or direction as this Hon"ble Court deems fit and proper in the circumstances of the case.
4. The High Court vide its order dated 22.3.1994 directed the petitioner to serve respondent No.2 by registered notice and take steps within three days as well as the Standing counsel was granted one month's time to file counteraffidavit. The case was directed to be listed in the second week of May, 1994. It was further

provided that meanwhile, respondent No. 1 was directed to pay salary to the petitioner in accordance with law or show cause before the next date of hearing.

5. Counter and rejoinder affidavits have been exchanged.

6. It is stated by the learned counsel for the petitioner that in the mean time, the erstwhile Committee of Management changed and new Committee of Management came into force which had appointed respondent No.5 as lecturer in Civics, who has now retired and is represented by Sri Ravindra Prasad, Advocate, who is present in the Court.

7. The admitted facts of the case are that the DIOS, Deoria had not granted approval to the appointment of the petitioner and in fact had granted approval to the appointment of respondent No.5, who has since retired.

8. Respondent No.5 has worked in the institution and has been paid his salary whereas the appointment of the petitioner has not been approved by the DIOS as stated above. In the circumstances, no relief can be granted to the petitioner by this Court as his appointment has not been approved by the DIOS.

9. In second Writ Petition No. 52641 of 2005, the petitioner has prayed for a direction in the nature of certiorari for quashing of the impugned orders dated 31121997 and 25112004 passed by respondent Nos.3 and 2. It has also been prayed that a direction may be issued to the respondents not to interfere in the working of the petitioner on the post of lecturer in Civics in Manas Inter College, Fatehpur, District Deoria.

10. By the impugned order dated 31121997 respondent No.5 has been promoted to the post of lecturer in Civics and he has now retired from service. By order dated 25112004 the appeal of the petitioner has been rejected.

11. It is stated that new Committee of Management without taking into consideration to the appointment of petitioner, had illegally filled up the post of lecturer in Civics by ad hoc promotion of Sri Ram Nazar Prasad, even the said post was not within 50% quota and he was not qualified on the date of vacancy which had been occurred after promotion of Ram Naresh. It is further stated that six posts of lecturers in the college had been sanctioned by the competent authority, out of them three posts of lecturers i.e. Economics, Geography and Hindi had been filled up by promotion and only two posts had been filled by direct recruitment i.e. post of lecturer in Sanskrit and History, thus, post of lecturer in Civics had to be filled up by direct recruitment but the Committee of Management illegally promoted Ram Nazar Prasad within 50% quota on adhoc basis while the said post was not fell within 50% quota.

12. It is next submitted that aggrieved by the illegal ad hoc promotion of respondent No.5 the petitioner made a representation to the DIOS for not granting financial approval to the ad hoc promotion of respondent No.5 but the DIOS without taking into consideration the representation made by the petitioner, granted financial approval vide his order dated 31121997. Thereafter,

the petitioner filed Civil Misc. Writ Petition No. 40085 of 1998 before the High Court challenging the ad hoc promotion of respondent No.5, which was disposed of vide order dated 611999 with a direction to the petitioner to approach the Joint Director of Education against the impugned order dated 31121997 passed by the DIOS. Pursuant to the order dated 611999 of this Court, the petitioner filed an appeal before the Joint Director of Education, which was rejected vide order dated 2511 2004, which has been challenged in Writ Petition No. 52611 of 2004.

13. For the reasons stated above, the writ petition is dismissed. No order as to costs.

14. For the same reasons, connected Civil Misc. Writ Petition No.52641 of 2005, Virendra Singh v. State of U.P. and others, stands dismissed.