

(2008) 12 AHC CK 0049

Allahabad High Court

Case No: None

Narendra Rai

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision: Dec. 2, 2008

Hon'ble Judges: S.U.Khan, J

Final Decision: Allowed

Judgement

S.U. Khan, J.

Regularisation of the petitioner has been refused merely on the ground that at the time of his appointment he was not qualified as he had passed B.A. with Hindi as one of the subjects but not Sanskrit. Petitioner was appointed as Instructor languages in Government Politicnic District Mirzapur on 28.10.1976 and thereafter 12.01.1977. Petitioner passed B.A. with Sanskrit also in 1979. Services of 35 persons working in Government Politicnics were not regularised. A list of those 35 persons alongwith reasons for not regularising their service has been supplied by learned standing counsel to the Court as well as to the learned counsel for the petitioner. Person at serial no.1 is Arun Kumar Shukla. His services were refused to be regularised on the ground that on the date of appointment he was less than 21 years of age while minimum age prescribed was 21 years. Sri A.K. Shukla filed writ petition no. 28082 of 1996 which was allowed on 18.05.1998 on the ground that respondents were also responsible for the irregular action of appointment of a person whose age was below 21 years.

Learned counsel for the petitioner has argued that firstly at the time of petitioner's appointment it was not necessary that the candidate must have offered Sanskrit as one of the subjects in graduation. The alternative argument of learned counsel for the petitioner is that in any case in the year 1979 petitioner passed graduation with Sanskrit as one of the subjects. In the details in respect of petitioner, supplied by learned standing counsel, it is mentioned in the first portion of column 4 that minimum qualification is B.A. with Hindi literature and Sanskrit. However, at the end

it is provided that in respect of fixation of above qualifications, requisite Government order is not available in the records.

In such a situation petitioner deserves regularisation in terms of Uttar Pradesh Regularisation of Ad hoc appointments (On Posts Outside the Purview of the Public Service Commission) Rules, 1979 as amended from time to time. The very fact that petitioner was appointed after following the due procedure for selection raises a presumption that petitioner possessed minimum qualification fixed at the time of his appointment. In any case in 1979 petitioner removed the deficiency if any in his qualification.

Accordingly, writ petition is allowed. Respondents are directed to regularise the services of the petitioner in terms of regularisation Rules 1979 as amended from time to time.