
(2012) 08 AHC CK 0175

Allahabad High Court (Lucknow Bench)

Case No: Civil Miscellaneous Writ Pettion No. 1818 (S/S) of 2006

Ram Sumer Bajpai

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision: Aug. 8, 2012

Acts Referred:

- Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982
- Section 33B

Hon'ble Judges: Shri Narayan Shukla, J

Final Decision: Allowed

Judgement

Shri Narayan Shukla,J.

1. Heard Shri Shiva Kant Tiwari, learned counsel for the petitioner and learned Additional Chief Standing Counsel.
2. Through the instant writ petition, the petitioner is seeking for regularization on the post of Assistant Teacher (L.T. Grade) under the provisions of Section 33B of the U.P. Secondary Education (Services Selection Boards) Act, 1982(In short Act, 1982).
3. Briefly stated, facts of the case are that the petitioner was appointed as Assistant Teacher (L.T. Grade) on 19.2. 1991 in Durga Prasad Inter College, Khasaura, Hardoi. Petitioner claims his appointment against the substantive vacancy. It is stated that two teachers working in C.T. Grade, namely, Ram Shanker Tiwari and Shri Shiv Raj Pal were promoted in L.T. Grade in March, 1985 with the approval of the District Inspector of Schools. In the result, two vacancies of C.T. Grade were notified for appointment on ad hoc basis. The petitioner along with several other persons applied therefor. On the basis of quality point marks the petitioner as well as Sri Shiv Prakash Mishra was selected. He was issued an appointment letter on 23.3.1985. Pursuant to which he joined the post on 25.3.1985. District Inspector of Schools, Hardoi also approved his appointment with effect from 8th July, 1985. It is stated that Shri Shiv Prakash Mishra, who was appointed along

with the petitioner on ad hoc basis has been regularized as Assistant teacher L.T. Grade by means of order dated 19th October, 1996, passed by the Deputy Director of Education VI th Region, Lucknow with effect from 7th August, 1993. Now he is working as I.T. Grade. On account of declaration of the C.T. Grade as dying cadre with effect from 19.2.1991 all the teachers, who had been working in C.T. Grade and had completed five years satisfactory services on or before 19th February, 1991 have been absorbed in L.T. Grade. Accordingly the petitioner also claims his entitlement for absorption in L.T. Grade with effect from 19th February, 1991 as he had already completed five years service prior to the said date.

4. Meanwhile Section 33B was inserted in the Act 1982 which permits regularization of those teachers, who were appointed by promotion or by direct recruitment in the Lecturer grade or trained Graduate grade on or before May 14,1991 or in the Certificate of Teaching grade on or before May 13, 1989 against a short term vacancy.

5. Since the petitioner comes within the criteria of regular appointment as aforesaid, he claims his regularization on the post of L.T. Grade.

6. Through the counter affidavit filed on behalf of respondents, it is stated that the petitioner's case was considered for regularization but he was not found within the zone of eligibility criteria. Therefore, his case was remitted. However, nowhere it is indicated as to what was the reason for rejection of his case.

7. Keeping in view the facts of the case in light of the provisions referred to herein above, I am of the view that the petitioner comes under the eligibility criteria of regularization on the post of L.T. grade. Therefore, he was entitled for regular appointment with effect from 6.4.1991, i.e, the date of insertion of provisions of Section 33B of the Act.

8. I am informed that after attaining the age of superannuation, the petitioner has retired on 30th June, 2011. Thus, it is established in light of the discussion made as above, that the petitioner had completed ten years services as regular service as is required under the Uttar Pradesh Contributory Provident Fund Insurance Pension Rules for the purpose of pension and is entitled for payment of pension.

9. Under the circumstances the writ petition is allowed with the direction to treat the petitioner as a regular employee on the post of Assistant Teacher L.T. Grade with effect from 6th April, 1991, i.e. from the date of enforcement of provisions of Section 33B of the Act and pay retiral dues including the pension as is admissible to the post.