

**(2003) 10 AHC CK 0186**

**Allahabad High Court**

**Case No:** C.M.W.P. No. 10026 of 1987

Smt. Prakashwati

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision:** Oct. 10, 2003

**Acts Referred:**

- Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982 - Section 21A, 21D

**Citation:** (2003) 6 AWC 5224

**Hon'ble Judges:** S.N. Srivastava, J

**Bench:** Single Bench

**Advocate:** Ajit Kumar and S.K. Lal, for the Appellant;

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

S.N. Srivastava, J.

Petitioner in the instant case was appointed as Assistant Teacher (B.T.C.) in Shri Krishak Kanya Uchhatar Madhyamic Vidyalaya Bahampur, District Aligarh by means of the order dated 25.2.1986 issued under the authority of Manager. Subsequently, the matter was referred for approval to the Regional Inspectress of Girls Schools and according to the averments made in the writ petition, the approval was accorded and the Petitioner was paid salary for the period between 25.2.1986 and 20.5.1986. The payment of salary was withheld thereafter and the matter was again referred to the Regional Inspectress of Girls Schools for approval which was declined by means of an order dated 24.2.1987. Consequently, the services of the Petitioner were also terminated. In the above backdrop, the present petition has been preferred for twin reliefs of quashing the impugned order dated 24.2.1987 passed by the Regional Inspectress of Girls School and the order dated 13.3.1987 passed by the Committee of Management thereby terminating the services of the

Petitioner.

2. It would appear from the perusal of the record that the only ground which prevailed with the Regional Inspectress of Girls School in declining approval was the provision contained in the U.P. Act No. 19 of 1985 from which the aforesaid authority drew inference that the Petitioner could not be appointed on substantive post.

3. The learned Counsel for the Petitioner canvassed that by the U.P. Act No. 19 of 1985, amendment came to be incorporated in U.P. Secondary Education Services Selection Boards Act, 1982 by insertion of Sections 21A to 21D and as a consequence of this amendment, appointment by U.P. Secondary Education Services Selection Boards Act, 1982 were put on hold till assimilation of all the Reserve Pool Teachers is complete. It is further canvassed that the order does not spell out that any reserve pool teacher in B.T.C. grade was ever appointed or any list of such teachers had been prepared or that they were queuing up for being given regular appointment in terms of the amendment incorporated by U.P. Act No. 19 of 1985. He lastly canvassed that the order passed by the Regional Inspectress of Girls Schools suffered from the vice of arbitrariness and cannot be sustained in law inasmuch as it was passed in oblivion of the fact that the Petitioner was a regularly appointed B.T.C. teacher who was entitled to salary and refusal to lend approval to her appointment was misconceived and consequent termination of her services which was passed without application of mind, cannot be sustained in law. Per contra, learned standing counsel did not press into service any argument of substance and made a thread-bare submission that the order was rightly passed in accordance with law.

4. It brooks no dispute that the Petitioner was appointed as B.T.C. grade teacher and it has not been repudiated that she was appointed through the means of regular selection by the Committee of Management after following due procedure. There were no reserve pool teachers awaiting their assimilation in B.T.C. grade consequent upon amendment in U.P. Secondary Education Services Selection Boards Act, 1982 by means of U.P. Act No. 19 of 1985. I have scanned the relevant provisions of the U.P. Secondary Education Services Selection Boards Act, 1982 on consideration of which, it is manifestly clear that the aforesaid Act has its application to the appointment of Principal/Head Master/Lecturer and L.T. grade teachers and it does not operate in relation to appointment in B.T.C. grade.

5. The learned standing counsel argued that even if it be assumed that there was no reserve pool teachers, the post being vacant could be filled in by proper selection. In vindication of his argument that the selection made was illegal, the learned standing counsel has not adverted attention to any documentary evidence to shore up his contention. On the contrary, it would transpire from perusal of the impugned order refusing approval that refusal was actuated by Ordinance 2212 of 1985 and in quintessence, it follows from the said order that refusal had its basis in the

provisions of U.P. Act No. 19 of 1985 and the Regional Inspectress did not record any other reason in relation to the validity of the selection of the Petitioner. In view of the fact that there was no reserve pool candidate and upon regard being had that U.P. Secondary Education Services Selection Boards Act, 1982 cannot be invoked in aid for application to appointment of B.T.C. Grade Teacher and also in view of the fact that it has not been successfully established that the appointment of Petitioner suffered from any illegality permeating her selection and appointment apparent on the face of record, I converge to the conclusion that the impugned orders cannot be sustained in law and are liable to be quashed.

6. As a result of foregoing discussion, the petition succeeds and is allowed. The impugned orders dated 24.2.1987 and 13.3.1987 passed by Respondents No. 2 and 3 respectively are quashed and it is in consequence observed that the Petitioner shall be deemed to be regularly appointed B.T.C. grade teacher. It needs hardly be said that the Regional Inspectress of Girls School/District Inspector of Schools concerned shall pass appropriate orders to accord financial approval in relation to the appointment of the Petitioner and she shall be paid salary from the date of her initial appointment upto the period she actually worked, in accordance with law.