

(2010) 11 AHC CK 0273

Allahabad High Court

Case No: Special Appeal No. 1745 of 2010

C/M, Jan Shikshan Inter College

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Nov. 8, 2010

Acts Referred:

- Uttar Pradesh Intermediate Education Regulations, 1921 - Regulation 101, 102, 103, 104, 105

Hon'ble Judges: Yogesh Chandra Gupta, J; Sunil Ambwani, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. We have heard Shri V.K. Singh, learned Counsel appearing for Committee of Management, Jai Shikshan Inter College, Prempur, Badagaon, District Kanpur Nagar. Shri Satish Mandhyan and Shri Alok Dwivedi appear for respondent No. 4. Shri R.K. Ojha has accepted notice on behalf of respondent No. 5. Shri Neeraj Pandey appears for respondent No. 6. The remaining respondents are represented by the Standing Counsel.

2. It is admitted to Shri V.K. Singh, counsel appearing for respondent-appellant, that there is only one sanctioned Class-III post in the College, for which the Committee of Management issued an advertisement for selection by direct recruitment.

3. Learned Single Judge has found that in view of the judgment in [Jai Bhagwan Singh Vs. District Inspector of Schools, Committee of Management, Maharana Khumbha Higher Secondary School and Devendra Singh Gehlot](#), interpreting Regulation 2 (2) and the note appended thereto, in Chapter III of the Regulations framed under U.P. Intermediate Education Act, 1921, and which speaks of 50% reservation of seats for promotion, a single post of Class-III available in the Intermediate College can be filled only by way of promotion of an eligible Class IV employee. The Division Bench did not approve the view taken in [Palak Dhari Yadav Vs. Regional Inspectress of](#)

[Schools, Gorakhpur and others,](#) A similar view has been taken in [Munna Lal Vs. Devendra Bahadur Singh Chandel and Others,](#) .

4. It is submitted by Shri V.K. Singh that the College has purchased computers. The persons working on Class IV post do not have knowledge of the computer, and thus the decision to fill up the post by direct recruitment was taken for better management of the institution.

5. The Court has already interpreted Regulation-2 of Chapter-III of the Regulations framed under the U.P. Intermediate Education Act, 1921, and has found that the Class IV employees have a right to be considered for promotion on the single sanctioned post of Clerk in the Intermediate College. In view of the statutory rights given to the Class IV employees for promotion on the single post, the argument, that for betterment of the College such person should have knowledge of computer, does not have any force.

6. The other issues namely, whether Shri Nagendra Singh is the senior most employee, or that he is otherwise eligible, are still pending with the Regional Level Committee, which is required to examine the matter keeping in view of the provisions of Regulations 101 to 107 of Chapter III of the Regulations framed under the Act. The judgment of learned Single Judge is based upon a settled law, accepted in various judgments of the Court interpreting the Regulations. We do not find any good ground to take a different view.

7. The Special Appeal is dismissed.