

(2011) 07 AHC CK 0265

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 43208 of 2001

Kanti Prasad Gupta

APPELLANT

Vs

Joint Director of Education, XII
Mandal, Moradabad and others

RESPONDENT

Date of Decision: July 4, 2011

Acts Referred:

- Uttar Pradesh Secondary Education Service Selection Board Rules, 1998 - Rule 14, 14(5), 14(6)

Citation: (2011) 131 FLR 82

Hon'ble Judges: Arun Tandon, J

Bench: Single Bench

Final Decision: Disposed Of

Judgement

Arun Tandon, J.

Heard learned Counsel for the parties.

Vacancy on the post of Lecturer Sociology was caused in Arya Vidyalaya Inter College, Milak, District-Rampur on 30th June, 2001 with the retirement of Om Pal Singh. According to the petitioner, he was working as L.T. Grade teacher in the institution since 8th July, 1972 and was eligible for promotion on the post of Lecturer Sociology, which was within the 50% quota for promotion. The manager forwarded a letter dated 14.7.2001 to the District Inspector of Schools seeking approval of the promotion of the petitioner. The District Inspector of Schools is stated to have granted such approval on 18th July, 2001 and the petitioner started working as Lecturer Sociology since 25.7.2001. Thereafter some correspondence took place between the District Inspector of Schools and the management of the institution in respect of such promotion granted to the petitioner. The District Inspector of Schools insisted that respondent No. 4 Tula Ram Gangwar was the teacher entitled for such promotion in preference to the petitioner. The District Inspector of Schools

passed an order on 31.7.2001 suspending the earlier approval granted in the matter of promotion of the petitioner. Further the committee of management is stated to have passed a resolution on 25.10.2001 for the promotion of respondent No. 4.

2. At this stage of the proceedings the petitioner filed Writ Petition No. 36849 of 2001, which is stated to have been allowed vide judgment and order of the Writ Court dated 22.11.2001. The orders impugned were quashed and a direction was issued to the District Inspector of Schools to pass a fresh order after affording opportunity to the petitioner, in case he so desires.

Before the order of the High Court could be communicated to the District Inspector of Schools, the Regional Joint Director of Education on 28.11.2001 passed an order for promotion of respondent No. 4 as Lecturer Sociology with a further direction to the District Inspector of Schools to take appropriate action in accordance with Rules 14(5) and 14(6) of the U.P. Secondary Education Services Selection Board Rules, 1998 (hereinafter referred to as "Rules, 1998").

3. The petitioner is stated to have represented against the said order on 30.11.2001 and is further stated to have filed a certified copy of the order passed by this Court dated 22.11.2001 before the authorities concerned.

However, without awaiting the outcome of the aforesaid representation and the compliance of the directions issued by this Court, referred to above, he has filed second writ petition for quashing of the order of the Joint Director of Education dated 28.11.2001 as well as order dated 7.8.2001, whereby the District Inspector of Schools had asked the Principal of the institution to forward the papers qua promotion of respondent No. 4.

4. One Chaudhary Narendra Singh has filed an impleadment application stating therein that petitioner Kanti Prasad has since retired on 30.11.2009 and further that he has been declared senior to respondent No. 4. For the purpose reference is made to the order of the Joint Director of Education, Moradabad dated 11.9.2009 as well as to the order of the District Inspector of Schools dated 16.9.2009. On these allegations it is claimed that now Chaudhary Narendra Singh is entitled for promotion against the post of Lecturer Sociology in the institution.

5. Counsel for the petitioner does not oppose the impleadment prayed for by Chaudhary Narendra Singh.

6. However, Sri K.S. Mishra, Counsel for respondent No. 4 submits that such impleadment application has only been filed for prolonging the present proceedings. He submits that Chaudhary Narendra Singh has no claim in the matter of promotion of Lecturer Sociology having regard to the first day of the year of recruitment with reference to the date of retirement of Om Pal Singh i.e. 30.6.2000. On the relevant date Chaudhary Narendra Singh had not completed 5 years of continuous service in L.T. Grade, which is a condition precedent for being

considered for promotion as Lecturer under Rules, 1998.

7. Having heard Counsel for the parties and having gone through the records, this Court finds that whatever orders have been passed by the education authorities in the matter of promotion on the post of Lecturer Sociology contain absolutely no reasons. Except for recording that the particular person should be promoted, none of the relevant facts with reference to Rule 14 of Rules, 1998 have been examined.

8. This Court may record that promotion on the post of Lecturer in a recognized institution can be accorded in favour of a teacher working in L.T. Grade, after examination of following facts only:

(a) the vacancy falls within the quota for promotion.

(b) the incumbent is possessed of the prescribed minimum qualifications including 5 years teaching experience in L.T. Grade on the first day of the year of occurrence of vacancy as provided for under Rules, 1998.

(c) Such promotion is to be granted on the basis of the seniority list, after considering the claim of all such eligible candidates.

In the facts of this case the order passed by the Writ Court in Writ Petition No. 20529 of 2001 dated 24.5.2001 has also to be kept in mind by the authorities and necessarily obeyed.

In view of the facts noticed above, it is provided as follows:

The Regional Joint Director of Education shall re-examine the matter qua promotion on the post of Lecturer Sociology in Arya Vidyalaya Inter College, Milak, District-Rampur, vacancy whereof has been caused on 30th June, 2000 with the retirement of Om Pal Singh, in light of the observations made herein above, preferably within four weeks from the date a certified copy of this order is filed before him, after affording opportunity of hearing to the petitioner, management of the institution, Chaudhary Narendra Singh and Kanti Prasad, if he is still interested in such promotion. Regional Joint Director of Education shall pass a reasoned speaking order. All consequential action shall be taken immediately thereafter.

9. Writ petition is disposed of accordingly. The order impugned shall abide by the orders to be passed by the Joint Director of Education, as indicated above.