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Date: 26/10/2025

Sudha Devi Vs State of U.P. and Others

None

Court: Allahabad High Court

Date of Decision: Sept. 9, 2010

Hon'ble Judges: Shabihul Hasnain, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Shabihul Hasnain, J.
Heard learned Counsel for the petitioner and Sri Manjeev Shukla, learned standing counsel for the opposite parties.

2. The case of the petitioner is that despite being appointed on the post of Assistant Teacher and continuously discharging the duties, the petitioner

is not getting the salary. The appointment has been made on the post of Assistant Teacher (L.T. Grade). The procedure for such appointment has

been undertaken. There was publication in two daily newspapers and the requisition has also been sent for the regular selection. The petitioner

possesses requisite qualification for the post and has been selected by the selection committee for ad-hoc appointment. The petitioner is working

without any salary in the interest of students. The salary is not being paid because the District Inspector of Schools has refused to grant approval to

the appointment of the petitioner.

3. Learned Counsel for the petitioner has placed reliance on the case of Rakesh Chandra Misra reported in 2004 (22) LCD 1604 Allahabad. The

petitioner says that in this case, it has been held that the interest of the education to be students is paramount. This judgment was referred to a

larger Bench. The larger Bench at Allahabad in the case of Daya Shanker Misra v. State of U.P. in Civil Misc. Writ Petition No. 20843 of 2002

has decided on 31.3.2010 that the judgment in Rakesh Chandra Misra"s case is a good law. The law laid down by his Lordship in the case of

Rakesh Chandra Misra"s case has thus been upheld by the Division Bench of this Court.

4. I am of the opinion that the interest of students and the education, is paramount in a democracy. The students cannot be made to suffer for the

time, which is taken by the Board in filling up of the vacancies. Be it, due to procedure or otherwise. If the students cannot be allowed to be

without a teacher for a short term vacancy, then it cannot be permitted by this Court that the students should be without a teacher for longer period

than the short term vacancy period. Accordingly, if the appointment has been made and the teacher is discharging his duty of teaching the students,

then it will be equitable that he should be paid salary.

5. Keeping in view the above two judgments, this Court feels that in case the petitioner is continuously working, he is entitled for the payment of

salary by the opposite parties. Accordingly, this Court directs the opposite parties to make regular payment of salary to the petitioner forthwith.

6. Learned standing counsel prays for and is granted four weeks'' time to file counter- affidavit, to which rejoinder- affidavit may be filed within a

week thereafter. List thereafter.

7. It is made clear that the appointment of the petitioner shall come to an end as soon as the regularly selected candidate comes in pursuance of the

requisition by the Board. No separate order for termination of the petitioner''s services will be required to be passed.