(2003) 02 AHC CK 0170

Allahabad High Court

Case No: C.M.W.P. No. 45182 of 1999

Balendu Bhushan Singh		APPELLANT
	Vs	
State of U.P and Others		RESPONDENT

Date of Decision: Feb. 19, 2003

Citation: (2003) 5 AWC 3772

Hon'ble Judges: Prakash Krishna, J; M. Katju, J

Bench: Division Bench

Advocate: Ashok Khare and Aditya Kumar Singh, for the Appellant; B.N. Singh, Sheo Kumar Singh and Advs. S.C., for the Respondent

Final Decision: Dismissed

Judgement

M. Katju, J.
This writ petition has been filed against the impugned order dated 15.9.1999 issued by the Education Department of the State Government,Annexure-15 to the writ petition.

2.Heard learned Counsel for the parties.

3.The Petitioner was selected in Combined State/Upper Subordinate Service Examination,1992.The relevant extracts of the result as published in the newspaper Rashtriya Sahara dated 6.4.1999 is Annexure-1 to the petition. In para 3 of the writ petition it is stated that at the time of the interview preference was called for from each of the candidates appearing in the interview. It is alleged that so far as requisition of the Petitioner, he has given preference for the post of Treasury Officer/Accounts Officer in U.P. Finance and Accounts Service at a higher preference followed by U.P. Education (General Education Code) Service Group B. On the basis of the recommendation, the Education Department of the U.P.Government issued order dated 30.1.1997 specifying seven persons including the Petitioner as having been selected for the post of Basic Shiksha Adhikari vide Annexure-2. In pursuance of the aforesaid order, the Petitioner was granted appointment as Basic Shiksha Adhikari by order dated 10.6.1997 Annexure. The

Petitioner assumed charge on 21.6.1997 vide Annexure-4. Since then he is in continuously working as Basic Shiksha Adhikari, Padrauna to the full and complete satisfaction of the superior authorities. The Petitioner''s name is at serial No. 2 in the schedule appended to the office order dated 20.9.1998 vide Annexure-5. In paras 10 and 11 of the petition it is stated that promotion from the post of Basic Shiksha Adhikari is to be made to the post of D.I.O.S. or Regl. Assistant Director. In para 13 it is stated that some candidates recommended for different posts including U.P.Finance and Accounts Service failed to join on the post for which they were recommended as a consequence of which reshuffling was done and as a result the Petitioner has been recommended for the post of Treasury Officer/Accounts Officer and an order dated 4.12.1998 was issued appointing the Petitioner to U.P.Finance and Accounts Service. The Petitioner was required to undergo training at the Administrative Academy, Nainital vide Annexure-6. By office orders dated 7.12.1998 and 16.1.1999 Annexures-7 and 8 the place of posting of the Petitioner and other persons were notified. In para 17 it is stated that there did not exist any occasion for granting appointment to the Petitioner as Treasury Officer/Accounts Officer in view of the fact that the Petitioner had already been appointed as Basic Shiksha Adhikari and had been working for two and half years. The Petitioner protested against the order vide representation dated 6.2.1999 vide Annexure-9. By order dated 26.5.1999, the Principal Secretary, U.P. Government cancelled the appointment and candidature of the Petitioner vide Annexure-10. The Petitioner submitted representation dated 27.5.1999 before the Principal Secretary vide Annexure-11. The D. M. Kushi Nagar also made recommendation on 25.6.1999 vide Annexure-12. Copy of the representation of the Petitioner dated 19.6.1999 before the Director of Education (Basic) dated 19.6.1999 is Annexure-13. However, on 27.9.1999 an order was issued by the Principal Secretary whereby earlier order dated 26.5.1999 was maintained and representation of the Petitioner was rejected. True copy of the order dated 21.7.1999 is Annexure-14. By the impugned order dated 15.9.1999 issued by the Education Department the Petitioner was relieved from the Education Department for joining at Finance Department vide Annexure-15. Hence, this writ petition.

4.A counter-affidavit has been filed.In para 4 it is stated that due to non-joining of some other selected candidates there was reshuffling and in this way the Petitioner who was allotted as per his fifth preference, had been readjusted according to his respective merit in the combined merit list In this reshuffling the Petitioner was reallotted the post of Treasury/ Accounts Officer which was his higher (fourth) preference as indicated in his preference sheet. The preference sheet of the Petitioner is Annexure-C.A.-1. In para 10 it is stated that the reshuffling was done within time according to the Government order dated 31.1.1994 Annexure-C.A. 2. The preference once given cannot be altered. In our opinion since the Petitioner has been given the post of his fourth preference it cannot be understood why he is insisting on the post of his fifth preference. The Petitioner has been given higher preference as per his own choice and he cannot have any grievance. The writ petition is dismissed. However, since the Petitioner has been working in the Education Department for many years the Government may consider his request for

being retained in the Education Department.