

Sohan Singh and Another Vs The District Inspector of Schools and Others

Court: Allahabad High Court

Date of Decision: Sept. 30, 1999

Acts Referred: Uttar Pradesh Secondary Education Services Commission and Selection Boards Act, 1982 " Section 33C, 33C(2)

Citation: (2000) 1 UPLBEC 895

Hon'ble Judges: R.K. Agrawal, J

Bench: Single Bench

Advocate: R.G. Padia and Prakash Padia, for the Appellant;

Final Decision: Allowed

Judgement

R.K. Agrawal, J.

The petitioner, Sohan Singh and Yogendra Singh Rawat have filed this writ petition seeking a writ, order of direction in the nature of certiorari quashing the order dated 20-3-1993 passed by the District Inspector of Schools, Pauri Garhwal, respondent No. 1 (filed

as Annexure 10 to the writ petition).

2. By means of the order dated 20-3-1993 the District Inspector of Schools had declined to grant approval to the appointment of the petitioners

as Assistant Teachers. The petitioners were appointed as Assistant Teacher in Inter College, Pasundakhal, District Pauri Garhwal on 25-10-1991.

It is claimed by the petitioners that they were appointed against permanent vacancies after the same was duly advertised.

3. I have heard Sri Prakash Padia, learned Counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents.

4. Mr. Padia has invited the attention of this Court to the U.P. Secondary Education Services Commission (Amendment) Act, 1998 (U.P. Act No.

25 of 1998). Section 10 of the said Act inserted Sections 33-C and 33-D in the Principal Act. Section 33-C which is relevant for the purposes of

deciding the present controversy is reproduced below :

33-C. Regulation of certain more appointments.--(1) Any teacher who :

(a) (i) was appointed by promotion or by direct recruitment on or after May 14, 1991 but not later than August 16, 1993 on ad hoc basis against

substantive vacancy in accordance with Section 18, in the Lecturer grade or Trained Graduate grade;

(ii) was appointed by promotion on or after July 31, 1988 but not later than August 6, 1993 on ad hoc basis against a substantive vacancy in the

post of a Principal or Headmaster in accordance with Section 18;

(b) possesses the qualifications prescribed under, or is exempted from such qualifications in accordance with, the provisions of the Intermediate

Education Act, 1921;

(c) has been continuously serving the institution from the date of such a appointment up to the date of the commencement of the Uttar Pradesh

Secondary Education Services Commission (Amendment) Act, 1998;

(d) has been found suitable for appointment in a substantive capacity by a Selection Committee consulted under Sub-section (2);

shall be given substantive appointment by the Management.

5. Mr. Padia submitted that in view of the amendment made by U.P. Act No. 25 of 1998, the case of the petitioners are to be considered by the

Selection Committee as constituted u/s 33-C (2) (a) of the Act.

6. He relied upon a judgment dated 11-12-1998 passed in Civil Misc. Writ Petition No. 1310 of 1992, Omkar Bahadur Singh v. District

Inspector of Schools, Azamgarh and others, in support of his plea that under similar circumstances, this Court had directed that the case of the

petitioners therein be considered according to Section 33-C of the Act, as inserted by U.P. Secondary Education Services Commission

(Amendment) Ordinance, 1998 (since replaced by U.P. Act No. 25 of 1998).

7. In view of the amendment brought in the Principal Act by U.P. Act No. 25 of 1998, a case has been made out by the petitioners to be

considered by the Selection Committee constituted u/s 33-C (2)(a) of the Principal Act, and if the petitioners fulfill the criteria laid down in the said

Section 33-C and also possess the requisite qualification, his case be considered within a period of 3 months from the date of filing of the certified

copy of this order before the District Inspector of Schools. Pauri Garhwal, respondent No. 1.

8. With the above the observations, the writ petition is allowed.