

Court No. - 34

Case :- WRIT - A No. - 5359 of 2020

Petitioner :- Akhilesh Chandra Pandey

Respondent :- Selection Committee, Regional Joint Director Of Education Prayagraj And 3 Others

Counsel for Petitioner :- Adarsh Singh, Aditi Pandey, Indra Raj Singh, Ramesh Kumar Tiwari

Counsel for Respondent :- C.S.C.

Hon'ble Donadi Ramesh, J.

1. Heard learned counsel for the petitioner and learned Standing Counsel for the State-respondents.
2. The instant petition has been filed for quashing the order dated 01.02.2020 passed by respondent no. 1 / Selection Committee through its Chairman, Regional Joint Director of Education, Prayagraj Region, Prayagraj. It is further requested that the respondent no. 1 be directed to consider the claim of the petitioner for promotion to the post of Lecturer in Education within stipulated time.
3. Pursuant to advertisement dated 23.08.1997 issued by the Institution, the petitioner has made an application for appointment to the post of Assistant Teacher L.T. Grade in Science / Mathematics. Thereafter, the petitioner participated in the selection proceedings and his name was recommended by the Committee for appointment. Accordingly, he was appointed on the said post on 05.09.1997. Subsequently, the said appointment has been forwarded by the Manager of the institution to the District Inspector of Schools, Allahabad for financial approval but District Inspector of Schools, Allahabad vide his order dated 12.02.1998

has disapproved the same.

4. Aggrieved by the aforesaid order, petitioner approached this Court by filing Civil Misc. Writ Petition No. 9775 of 1998 and this Court vide order dated 19.03.1998 has allowed the writ petition. In compliance of the said order, appointment of the petitioner has been approved by the District Inspector of Schools, Allahabad on the post of Assistant Teacher L.T. Grade.

5. Further, despite having requisite qualifications for regularization on the post of Assistant Teacher L.T. Grade as provided under Section 33 (G) of the U.P. Secondary Education Services Selection Board Act, 1982, the claim of the petitioner for regularization was not considered. Thereafter, the same has been assailed in Writ-A No. 24531 of 2018. The aforesaid writ petition was disposed of vide order dated 19.11.2018 directing the authorities to consider the claim of the petitioner for regularization within the stipulated time. Accordingly, in compliance of the order dated 19.11.2018, the District Inspector of Schools, Allahabad has passed an order dated 07.03.2016 for regularization of the petitioner services w.e.f. 22.03.2016. The issue involved in the present writ petition is with regard to consideration of the petitioner to the post of Lecturer in Education considering the length of service of the petitioner from the date of initial appointment.

6. The petitioner being senior most Assistant Teacher L.T. Grade having requisite qualification of Lecturer of Bachelor of Science, Master in Arts in Education and training qualification of L.T. Grade is duly eligible and qualified for being considered for promotion to the post of lecturer in education in the institution.

7. The claim of the petitioner for promotion to the post of Lecturer

in Education was rejected by respondent no. 1 vide impugned order dated 01.02.2020 on the ground that he has not completed five years continuous regular service on the first day of year of recruitment. Hence, the present writ petition.

8. Sri R.N. Vishwakarma, the then District Inspector of Schools, Allahabad has filed his counter affidavit on 29.10.2021, in which he has specifically relied on Regulation 14 of U.P. Secondary Education Services Selection Board Rules, 1998, according to which, vacancy would be filled by promotion of teachers working in Trained graduates grade or Certificate of Teaching grade, if any, who possess the qualifications prescribed for the post and have completed five years continuous regular service, shall be considered for promotion. In the instant case, vacancies arose on 10.07.2017 and accordingly, petitioner has been regularized in the year 2016 as such he does not come within the ambit of Regulation 14 U.P. Secondary Education Services Selection Board Rules, 1998.

9. Learned counsel appearing on behalf of the petitioner submits that since the vacancies are available in the institution and petitioner has completed five years as regular service, having eligible qualification as per Regulation 14 U.P. Secondary Education Services Selection Board Rules, 1998, is entitled for promotion considering the length of service from the date of regularization i.e. 22.03.2016.

10. Learned Standing Counsel appearing on behalf of the State-respondents fairly states that the matter be remitted back to the Competent Authority to consider the case of the petitioner as per Regulation 14 of U.P. Secondary Education Services Selection Board Rules, 1998.

11. Considering the submissions made by learned counsel for the parties, the writ petition is **disposed of** with the consent of learned counsel for the parties, by setting aside the impugned order dated 01.02.2020 and the matter is remitted to the respondent no. 1 to consider the claim of the petitioner by taking the length of service from 23.02.2016 for promotion, if otherwise eligible under Regulation 14 of U.P. Secondary Education Services Selection Board Rules, 1998, expeditiously preferably within a period of 8 weeks from the date of production of certified copy of this order.

Order Date :- 4.12.2023

Manoj

(Donadi Ramesh,J.)