

Court No. - 7

Case :- WRIT - A No. - 19546 of 2021

Petitioner :- Smt. Asha Pandey

Respondent :- State Of U.P. Thru. Prin. Secy. Secondary Education And Ors.

Counsel for Petitioner :- Yogendra Kumar Mishra, Ajey Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Abdul Moin, J.

1. Heard.

2. The instant writ petition has been filed praying for following main reliefs:

"(i) to issue a writ, order or direction in the nature of certiorari quashing the impugned orders dated 31.03.2021 and 23.06.2021 of the respondents contained in Annexure 1 and 5 respectively to the writ petition;

(ii) to issue a writ, order or direction in the nature of mandamus commanding not to give effect to the impugned orders dated 31.03.2021 and 23.06.2021 of the respondents contained in Annexures 1 and 6 respectively to the writ petition;

(iii) to issue a writ, order or direction in the nature of mandamus commanding the respondents not to consider the case of the petitioner for extension of service in accordance with the government order dated 28.06.2019 contained in Annexure-9 to the writ petition."

3. The case set forth by the petitioner is that a government order dated 28.06.2019, a copy of which is annexure 9 to the petition, was issued by the respondents indicating that with respect to subject specialist teachers who have attained the age of sixty years, they can be continued to be engaged upto the age of 70 years in a block of two years provided that their work / competence is approved by a committee under the chairmanship of the Chief Development Officer.

4. It is contended that despite the petitioner being eligible for

getting extension the same has been rejected vide the order impugned dated 31.03.2021, a copy of which is annexure 1 to the petition, on the ground that in the meeting, the petitioner has not been found eligible for being appointed as subject specialist and for extension of her term. Subsequent thereto through the order impugned dated 23.06.2021, a copy of which is annexure 5 to the petition, the District Inspector of Schools has reiterated the same decision.

5. The contention of learned counsel for the petitioner is that the government order dated 28.06.2019 only provides for seeing the competence of the teacher and the petitioner is extremely competent and is the only teacher in the said subject and consequently it was the duty of the respondents to have extended her term for a period of two years beyond the age of 60 years and the same should have continued at least till the age of 70 years as has been provided in the aforesaid government order.

6. On the other hand, learned Standing Counsel on the basis of averments contained in the counter affidavit more particularly paragraph 6 of the counter affidavit argues that the petitioner had retired on attaining the age of superannuation in the session 2020-21. In terms of government order dated 28.06.2019 her claim was considered for grant of extension beyond the age of 60 years in a block of two years by a committee which was required to be constituted in terms of the said government order. The committee vide its decision has considered the previous performance of the petitioner and it has found that the teaching work of the petitioner is not satisfactory and there are decreasing number / percentage of students with high percentage marks in the examinations and thus it was decided not to extend the term of the petitioner.

7. The argument of learned Standing Counsel is that when the government order dated 28.06.2019 itself leaves the decision to be taken for extension to the committee and the committee, after seeing the previous performance of the petitioner, was of the view that the petitioner does not deserve an extension beyond the age of sixty years on the basis of performance of her students consequently no error has occurred in the respondents rejecting her extension application.

8. The said argument is opposed by learned counsel for the petitioner by placing reliance on the averments contained in the rejoinder affidavit by contending that the students strength has in fact increased and it is only the petitioner who is the subject expert in the subject which is being taught to the students and no other teacher is so qualified so as to teach the students.

9. Having heard learned counsel for the parties and having perused the record what emerges is that the sheet anchor of the claim of the petitioner is the government order dated 28.06.2019 which provides for an extension to be granted to subject specialist beyond 60 years upto the age of 70 years for a block of two years on the basis of recommendations of the committee which is to consider the work / competence of the teacher who is to be granted an extension. Perusal of the minutes of meeting of the said committee, a copy of which is annexure CA-1 to the counter affidavit filed by the respondents, would indicate that the number of students who have received higher percentage has been decreasing from year to year. As an example, the students who have obtained the percentage of 70 to 80% for the year 2016 was 44% vis a vis 40% in the year 2017, 42% in the year 2018, 9% in the year 2019 and the percentage of students have done a completely disappearing act in 2020 meaning thereby that no student attained the percentage

of 70 to 80% in the year 2020. This itself is reflective of the competence of the petitioner to teach the students!!!

10. Nothing more is required to be said by this Court considering the aforesaid minutes of meeting which has considered the 'competence' of the petitioner to teach the students and it has been opined to not grant an extension to the petitioner.

11. Keeping in view the aforesaid discussions, no case for interference is made out. Accordingly, the writ petition is **dismissed**.

Order Date :- 16.12.2023

J.K. Dinkar