

VISHNU SHARAN PANDEY Vs. JOINT DIR. OF EDUCATION
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LAWS(SC)-2014-9-120
Supreme Court Of India
Decided on September 23,2014

VISHNU SHARAN PANDEY

Appellant

VERSUS

JOINT DIR. OF EDUCATION

Respondents

JUDGEMENT

R. Banumathi, J. - (1.) LEAVE granted.

(2.) THIS appeal arises out of judgment dated 15.11.2006 passed by the Allahabad High Court in CMWP No. 8512/2002 in and by which the High Court has quashed the Order dated 4.2.2002 passed by the Joint Director of Education, Gorakhpur and held that the 3 Respondent was senior to the Appellant for holding the post of adhoc Principal and also held that the Order dated 4.2.1991 passed by District Inspector of Schools, Deoria, as relied upon by the Appellant is a fraudulent one and directing recovery of the entire salary paid to him for the period subsequent to 24.7.1976. Appellant claims to have been appointed on temporary basis as a Lecturer in Sociology in 5th Respondent -college on 1.10.1972 and was appointed in the substantive post on 1.01.1973. The appointment of the Appellant as a Lecturer in Sociology and his continuance had a chequered career for about two decades. CMWP No. 8512/2002 was filed by the Appellant in the High Court, mainly raising the issue of seniority for holding the post of adhoc Principal of the 5th Respondent college. Dr. Lalloo Pathak, Principal of 5th Respondent -Inter College died on 13.6.1999, while still in service and on his demise, the post of principal became vacant from 13.6.1999. The Managing Committee by its Resolution No. 2 dated 13.6.1999, decided to appoint the senior most lecturer, Sri Lal Mohan Singh -4th Respondent, on the post of principal on adhoc basis and the same was sent to the authorities for approval. The Managing Committee of 5th Respondent -college changed its earlier resolution dated 13.06.1999 and sent another decision appointing 3 Respondent -Dr. Prem Sunder Singh as the officiating principal and thus the matter of appointment on the vacant post of principal has been under dispute. A Writ Petition No. 39747/1999 was filed by Dr. Prem Sunder Singh in the Allahabad High Court and the High Court directed the parties to approach the concerned authorities. Accordingly, District Inspector of Schools, Deoria heard 3 and 4th Respondents and upon perusal of the representation and the documents produced by them by Order dated 21.10.1999, ordered that Sri Lal Mohan Singh -4th Respondent being the senior most lecturer of the college is entitled to take charge as officiating principal.

(3.) CHALLENGING the order of District Inspector of Schools, Deoria and claiming that he being the senior is entitled to take charge as officiating principal, the Appellant filed appeal before the Joint Director of Education, Gorakhpur. The Joint Director of Education afforded opportunity to the Appellant and also heard 3 and 4th Respondents and thereafter, passed a detailed order dated 4.2.2002, declaring that the 3 Respondent -Dr. Prem Sunder Singh is the senior most lecturer in 5th Respondent -college and is entitled to hold the charge as officiating principal. The above Order of the Joint Director of Education dated 4.2.2002 was challenged by the Appellant in CMWP No. 8512/2002, contending that he is senior to Respondents 3 and 4 and claiming that he is entitled to hold the post of adhoc principal in 5th Respondent college. In the writ petition, the High Court had gone into the question of legality of the appointment of the Appellant and his continuance as a Lecturer of Sociology in 5th Respondent -college and observed that the Appellant was able to obtain a fraudulent order dated 4.02.1991, on the basis of which he has been receiving salary from the State. On the above findings, the High Court directed the Appellant to refund the entire salary paid to him for the period subsequent to 24.7.1976 and in case the same is not refunded, the same was to be recovered from him as arrears of land revenue. ;

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