

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2606 OF 2009

Ram Vir Sharma ..Appellant

versus

State of U.P. and others ..Respondents

WITH

CIVIL APPEAL NO. 2249 OF 2009

Surender Pal Singh ..Appellant

versus

Shambhu Kumar Sharma and others ..Respondents

ORDER

Civil Appeal No. 2606 of 2009

The controversy in hand pertains to the Raghuvir Sahai Inter College, Aligarh (hereinafter referred to as the 'College'). One Shri S.K. Gupta was substantively appointed as its Principal. He attained the age of superannuation on 10.07.2005. His tenure of employment as Principal was, however, extended up to the end of the academic session, i.e., up to 30.06.2006, in terms of the prevailing norms.

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Parveen Kumar Chawla

Date: 2014.06.06

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Reason:

The appellant before this Court, i.e., Ram Vir Sharma
claimed appointment as adhoc Principal against the vacancy
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created by Shri S.K. Gupta with effect from 1.7.2006 under
Section 18 of the U.P. Secondary Education services Selection
Board Act, 1982 (hereinafter referred to as the '1982 Act').

Section 18 of the 1982 Act is being extracted hereunder:

"18. Ad hoc Principals or Headmasters - (1) Where the management has notified a vacancy to the Board in accordance with sub-section (1) of Section 10 and the post of the Principal or the Headmaster actually remained vacant for more than two months, the

Management shall fill such vacancy on purely ad hoc basis by promoting the senior most teacher,

(a) in the lecturer's grade in respect of a vacancy in the post of the Principal;

(b) in the trained graduate's grade in respect of a vacancy in the post of the Headmaster.

(2) Where the Management fails to promote the senior most teacher under sub-section (1), the Inspector shall himself issue the order of promotion of such teacher and the teacher concerned shall be entitled to get his salary as the Principal or the Headmaster, as the case may be, from the date he joins such post in pursuance of such order of promotion.

(3) where the teacher to whom the order of promotion is issued under sub-section (2) is unable to join the post of Principal or the Headmaster, as the case may be, due to any act or omission on the part of the Management, such teacher may submit his joining report to the Inspector, and shall thereupon be entitled to get his salary as the Principal or the Headmaster, as the case may be, from the date he submits the said report.

(4) Every appointment of an ad hoc Principal or Headmaster under sub-section (1) shall cease to have effect from the date when the candidate recommended by the Board joins the post."

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The claim for adhoc appointment as Principal, is available to a teacher who is the senior most in the college. The appellant herein claimed to be the senior most. The above position was, however, disputed. It is, therefore, that the appellant preferred Writ Petition No. 37688 of 2006, which was allowed by the High Court of Judicature at Allahabad (hereinafter referred to as the 'High Court') on 24.5.2007. Ram Vir Sharma came to be held as the senior most teacher in the Raghuvir Sahai Inter College, Aligarh.

Despite the above determination, the appellant was not posted as Principal. In the above view of the matter, he again approached the High Court by filing Writ Petition No. 27316 of 2007. The above writ petition came to be allowed on 15.06.2007. In compliance thereof, he was posted as adhoc Principal of the college. The appellant retired on attaining the age of superannuation on 6.8.2007. Despite having attained the age of superannuation, he was permitted to continue to discharge the duties of the post of teacher till the end of

academic session, i.e., up to 30.06.2008. He was, however, not allowed to discharge the duties of the post of Principal, after he attained the age of superannuation on 6.8.2007. He was also not granted emoluments of the post of Principal, till he continued to discharge the duties with the college as teacher. This was also
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on account of the modification of the order dated 15.06.2007 at the behest of Anil Kumar Saxena (respondent no.8 herein) vide order dated 14.08.2007. It is, therefore, that the appellant again approached the High Court by filing Special Appeal No. 803 of 2007, against an order of modification passed by the High Court on 14.08.2007 (in Writ Petition No. 27316 of 2007). The High Court, while not accepting the prayer made by the appellant, disposed of the above Special Appeal vide an order dated 25.09.2007. The order dated 25.09.2007 is the subject matter of challenge through the instant civil appeal.

The only question that arises for consideration at our hands is, whether having attained the age of superannuation on 6.8.2007 (i.e., at the age of 62 years), the appellant was dis-entitled to continue discharging the duties of the post of Principal under Section 18 of the 1982 Act or that he would be entitled to continue as the Principal up to the end of academic session, i.e., up to 30.06.2008.

The High Court, through the impugned order, arrived at the conclusion, that having superannuated on attaining the age of 62 years on 6.8.2007, the appellant was not entitled to be considered as the senior most teacher of the College, and as such, was dis-entitled to continue as adhoc Principal under Section 18 of the 1982 Act.

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Insofar as the instant aspect of the matter is concerned, we are of the view that the High Court did not take into consideration Regulation 21 contained in Chapter III under the U.P. Intermediate Education Act, 1921. The above Regulation, which has been relied upon by the learned counsel representing the appellant, is being extracted hereunder:

"21 Principal, Head Master, Teacher shall retire on attaining the age of sixty two years. In case date of superannuation of a Principal, Head Master, or teacher falls between 2nd July and 30th June, then in that case retirement date of Principal, Head Master or Teacher falls in the midst of academic year, except in such cases in which the person concerned do not desires to continue and issues a notice two month prior to date of retirement, shall retire at the end of the academic year and said extension shall be deemed to have been self-granted. Further extension in service shall only be granted in those special circumstances which are recommended by the State Government..."

A perusal of the above Regulation reveals that a Principal, Head Master or Teacher, who is still in service at the beginning of the academic session on 02 nd July (of a particular year) is entitled to continue to serve till the end of academic session, i.e. up to 30 th June (of the next year). The above Regulation also postulates, that the date of superannuation of such a Principal, Head Master or Teacher would stand extended till the end of the academic year.

Since it is not a matter of dispute that the appellant 6
opted to continue in service till the end of academic session, and actually discharged his duties till 30.06.2008, he had continued till the end of academic year, i.e., up to 30.06.2008. Thus, his age of superannuation under Regulation 21, would be deemed to have been extended till 30.06.2008. It is, therefore, clear that the appellant must not be deemed to have been superannuated on 6.8.2007, but he would be deemed to have been superannuated only on 30.06.2008, under Regulation 21, (extracted above). If he was to superannuate on 30.06.2008, naturally, his tenure of Principal would be co-terminus with the date of his superannuation. We have, therefore, no doubt whatsoever, that the appellant was entitled to continue in service, and hold the post of Principal on adhoc basis, under Section 18 of the 1982 Act till 30.06.2008. We order accordingly.

The appellant shall be entitled to all monetary benefits in compliance with the conclusion recorded hereinabove.

The appeal is allowed in the above terms.

Civil Appeal no. 2249 of 2009

Learned counsel for the parties are agreed, that the controversy in the instant appeal is identical to the one adjudicated upon by this Court in Ram Vir Sharma vs. State of Uttar Pradesh and others, Civil Appeal No. 2606 of 2009 decided on 04.06.2014.

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In view of the above, the instant appeal is allowed in terms of the order passed by this Court in Ram Vir Sharma vs. State of Uttar Pradesh and others, Civil Appeal No. 2606 of 2009 decided on 04.06.2014.

.....J.
[JAGDISH SINGH KHEHAR]

NEW DELHI;J.
JUNE 04, 2014. [C. NAGAPPAN]

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ITEM NO.102 COURT NO.4 SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2606/2009

RAM VIR SHARMA Appellant(s)

VERSUS

STATE OF U.P. & ORS. Respondents(s)

(with appln(s) for exemption from filing statement of case and office report)

WITH
C.A. No. 2249/2009
(with appln(s) for exemption from filing statement of case and office report)

Date : 04/06/2014 These appeals were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE C NAGAPPAN
[VACATION BENCH]

For Appellant(s) Ms. Garima Prashad,Adv.

For Respondent(s) Mr. Vivek Vishnoi, Adv.
 Mr. Shashank Singh, Adv.
 Mr. M.A. Umar, Adv.
For Mr. M.R. Shamshad, AOR(NP)

 Mr. T.N. Singh, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

The appeals are allowed in terms of the signed
order.

(PRAVEEN KUMAR CHAWLA)
COURT MASTER

(PHOOLAN WATI ARORA)
ASSISTANT REGISTRAR

[signed order is placed on the file]