

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 1673/2012

DISTRICT INSPECTOR OF SCHOOL & ANR.

APPELLANT(S)

VERSUS

RISHI PAL & ORS.

RESPONDENT(S)

O R D E R

Heard learned counsel for the appellants and the respondents.

The respondent-writ petitioner was appointed as a teacher in Kishan Vidyalaya Inter College, Laksar, District Haridwar, Uttarakhand, which is a "grant-in-aid institution", on ad hoc basis at the pay scale of Rs.1420-2300 and his appointment letter was issued on 30th August 1992. The dispute arose in this matter as after working for 10 years in the post concerned, he was removed on the ground that another teaching staff who was holding the same post stood promoted but was subsequently reverted to the post held to which this writ petitioner was appointed. The respondent invoked the constitutional writ jurisdiction of the High Court of Uttarakhand at Nainital but he was unsuccessful before the First Court. The First Court held that the respondent-writ petitioner was appointed on adhoc basis in resultant vacancy of one Jaydhwaj Kumar who was holding substantive post of a teacher with certificate of training ("CT").

The stand of the respondent-writ petitioner, however, was that he was appointed in Licentiate Grade ("LT"). The respondent-writ petitioner's contention, however, was that his appointment was in

terms of Rule 9-A of the Uttar Pradesh Secondary Education Services Commission Rules, 1983 (for short 'the Rules') and there was no flaw in his appointment. His Special Appeal before the Division Bench of the High Court was allowed and as regards the findings of the High Court, the Bench found the approach of the First Court which proceeded on the basis that said Jaydhwaj Kumar was holding a substantive post of Teacher with and stood promoted on adhoc basis to the post of Trained Graduate Teacher giving rise to the resultant vacancy in which the respondent-writ petitioner was appointed was contrary to the record. In fact, the Bench rejected the stand of the appellant (before us) that the respondent-writ petitioner was appointed in a resultant vacancy.

We do not find any error in the findings of the Division Bench of the High Court. We, accordingly, sustain the judgment appealed against and dismiss the present appeal. As regards the benefits the respondent-writ petitioner may get, we are considering two factors. The first one is that he had worked for 10 years but after being removed and restored in service by the Division Bench judgment, stay order was granted in this appeal by this Court on 11th July 2011.

In such circumstances, we direct restoration of the respondent-writ petitioner in the post in question. So far as the back wages is concerned, we direct a lump sum payment of Rupees Ten Lakhs to be paid to the respondent-writ petitioner within a period of three months from today. He shall also get notional benefit of continuation of service and the said benefit shall be factored in

for computation of his retiral benefits as well. In the event the post from which the respondent-writ petitioner was removed from, stands filled up, as an exceptional case, we are directing creation of a supernumerary post to accommodate the respondent-writ petitioner which shall cease after his superannuation.

As we are awarding back wages of Rupees Ten Lakhs in lumpsum to the respondent-writ petitioner, the costs imposed by the High Court shall stands set aside.

Pending application(s), if any, shall stand disposed of.

There shall be no order as to costs.

.....J.
[ANIRUDDHA BOSE]

.....J.
[SUDHANSHU DHULIA]

New Delhi;
March 16, 2023.

ITEM NO.110

COURT NO.11

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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(IA No. 32668/2023 - EXEMPTION FROM FILING O.T. & IA No. 32665/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 16-03-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Appellant(s) Mr. Atul Sharma, AOR
Ms. Rachna Gandhi, Adv.

For Respondent(s) Mr. Anurag Dubey, Adv.
Mr. Meenesh Dubey, Adv.
Mr. Bhupendra Kumar Bhardwaj, Adv.
Mrs. Anjali Tiwari, Adv.
Ms. Divya Bhardwaj, Adv.
Mr. S. R. Setia, AOR

Mr. B.K.Mishra, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Niharika Dewivedi, Adv.
Ms. Kajal Kumari, Adv.
Mr. Rameshwar Prasad Goyal, AOR

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

The appeal is dismissed in terms of the signed order, which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR