

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7016/2009

SUSHMA SHUKLA

APPELLANT (S)

VERSUS

JOINT DIRECTOR OF EDUCATION, KANPUR & ORS.

RESPONDENT (S)

O R D E R

The appellant is aggrieved by the judgment and order of the High Court of Allahabad rejecting her claim that she is senior to Respondent No.4/Smt. Shammi Dwivedi in the post of L.T. Grade which is also known as the Trained Graduate Grade.

There are two kinds of grades, one is known as the L.T. Grade which requires the qualification of graduation with B.Ed. and the other, is C.T. Grade which requires the qualification of certificate of teaching.

The appellant was appointed on ad hoc basis in the L.T. Grade on 5.10.1990, as such her appointment was approved by the Regional Inspector of Girls School, Kanpur Region, Kanpur on 6.12.1990. This appointment was under the U.P. Secondary Education Service

Selection Board Act, 1982. Section 33-C¹ was inserted by U.P. Act No.25/1998 with effect from 20.4.1998.

Thereafter, the appellant was made regular in the L.T. Grade on 7.8.1993.

Apparently, the appellant's services were regularized in the L.T. Grade on 7.8.1993 i.e. before coming into force of the Act. So, obviously the regularization was not in pursuance of Section 33-C. Even otherwise we find that Section 33-C has no application to the appellant's case since the appellant was appointed on ad hoc basis by direct recruitment before 14th May, 1991. Whereas Section 33-C confers the benefit of regularization only on those appointed after 14th May, 1991 vide Section 33-C (a)(i).

The respondent No.4 was initially appointed as a C.T. Grade teacher having the certificate of teaching. She completed ten years, therefore, in accordance with Section

1 33-C. Regulation of certain more appointments. - (1) Any teacher who, -
 (a) (i) was appointed by promotion or by direct recruitment on or after May 14, 1991 but not later than August 6, 1993 on ad hoc basis against substantive vacancy in accordance with Section 18, in the Lecturer grade or Trained Graduate grade;
 (ii) was appointed by promotion on or after July 31, 1988 but not later than August 6, 1993 on ad hoc basis against a substantive vacancy in the post of a Principal or Headmaster in accordance with Section 18;
 (b) possesses the qualification prescribed under, or is exempted from such qualifications in accordance with, the provisions of the Intermediate Education Act, 1921;
 (c) has been continuously serving the Institution from the date of such appointment up to the date of the commencement of the Uttar Pradesh Secondary Education Services Commission (Amendment) Act, 1998;
 (d) has been found suitable for appointment in a substantive capacity by a Selection Committee constituted under sub-section (2);
 Shall be given substantive appointment by the management.

33-D² her services were regularized as a Trained Graduate Grade with effect from 8.11.1992.

It is thus obvious that the respondent no.4 gained a prior entry in L.T. Grade having been brought into the said Grade in 1992; whereas the appellant was brought into the said Grade in 1993, accordingly, there is no doubt that Respondent No.4 was senior to the appellant.

As a consequence of the above facts, the appellant failed in the writ petition that she filed before the High Court. The learned Single Judge dismissed the appellant's writ petition. In appeal, the Division Bench confirmed the said judgment.

Shri D.K. Garg, learned counsel appearing for the appellant, strenuously contended that the appellant is entitled to the benefit of Section 33-C but later on fairly accepted the fact that Section 33-C would have no application to the appellant's case, since the appellant had been appointed prior to 1991, which is a requirement of the Section.

We, thus, find that there is no merit in this appeal and the judgment of the High Court

2 33-D. Special provision for Certificate of Teaching grade teachers.-- Every teacher in the Certificate of Teaching grade, who is a trained graduate and, -
(a) has completed ten years' continuous satisfactory service in the said grade on or before January 1, 1986 shall, with effect from January 1, 1986: or
(b) completes the said service of ten years after January 1, 1986 shall, with effect from the date of completion of the said service of ten years; be deemed to have been appointed in the Trained Graduate Grade.

of Allahabad deserves to be affirmed. The appeal is, accordingly, dismissed.

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.
[S.A. BOBDE]

NEW DELHI;
JANUARY 06, 2016.

ITEM NO.113

COURT NO.6

SECTION XI

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

Civil Appeal No(s). 7016/2009

SUSHMA SHUKLA

Appellant(s)

VERSUS

JOINT DIRECTOR OF EDUCATION, KANPUR & ORS.

Respondent(s)

(with office report)

Date : 06/01/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. Dinesh Kumar Garg, Adv.
 Mr. Deepak Mishra, Adv.
 Mr. Dhananjay Garg, Adv.

For Respondent(s) Mr. M. R. Shamshad, Adv.
 Mr. Vikrant Yadav, Adv.
 Mr. Zaki Ahmad Khan, Adv.

Mr. Yatish Mohan, Adv.
Ms. Vinita Y. Mohan, Adv.
Mr. E. C. Vidya Sagar, Adv.

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

The appeal is dismissed in terms of the signed order.

(NARENDRA PRASAD)
COURT MASTER

(SHARDA KAPOOR)
COURT MASTER

(Signed order is placed on the file)