

DHARAMVIR
v.
STATE OF U.P. AND ORS.

SEPTEMBER 4, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law :

School—Teacher—Directions regarding appointment and payment of salary.

In appeals to this Court on the question whether the appellant is entitled to salary for the period during which he had worked as a teacher:

Disposing the appeals, this Court

HELD : The District Inspector of Schools inspected the School and found that the appellant had been working since September 3, 1985 as teacher since the referred teacher had not joined and one other teacher had also left the post. Consequently, the appellant is entitled to the payment of salary. However, it would be open to the Management, in consultation with the District Inspector of Schools, to get it verified whether the salary in fact was paid to the appellant for the period in question. If he has already received it, he is not entitled to the salary now for the same period. Further the appellant's entitled to continue in service according to the rules be decided by the appropriate authority. [312-B-C; E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 8305-06 of 1995.

From the Judgment and Order dated 3.8.89 of the Allahabad High Court in W.P. No. 3318 & 741 of 1986.

P.P. Rao, Jitendra Mohan Sharma, for the Appellant.

T.N. Singh, for R.B. Misra for the Respondents.

Ms. Rachna Gupta for the Management.

The following Order of the Court was delivered :

A Leave granted.

B We have heard the counsel for the parties. The only controversy in this case is whether the appellant is entitled for salary for the period during which he had worked. Though the controversy has been raised as to whether he was validly appointed in accordance with the proceedings prescribed by the appropriate rules, it is not necessary for us to go into that controversy as it is not the question in issue. The District Inspector of Schools, Bulandshahar in his report dated February 1, 1989 had stated that he had inspected the Adarsh Higher Secondary School, Raunija on January 25, 1989 and found that the appellant had been working since September 3, 1985 as teacher since the reserved teacher, viz., Kanchi Mal Gupta, had not joined and one Vijay Kumar had also left the post. Consequently, since the Maths Teacher post was vacant and the appellant had been working ever since September 3, 1985, the appellant is entitled to the payment of salary.

D Ms. Rachna Gupta, the learned counsel appearing for the respondent-Management has stated that the manager and the appellant, had colluded and got double payment. Salary had been duly paid pursuant to the direction of this Court. But he was paid by the Management itself for the period from September 1985 to June 1988. If that is so, it would be open to the Management, in consultation with the District Inspector of Schools, to have it verified whether the salary in fact was paid to the appellant for the period in question. If he has already received it, he is not entitled to the salary now for the same period. We also direct that appellant's entitlement to continue in service according to the rules be decided by the appropriate authority and the post would be filled in accordance with rules. In case the appellant becomes over-aged for consideration, necessary relaxation will be given and he will be considered along with the candidates to be interviewed by the appropriate Committee in accordance with the rules.

F The appeals are accordingly disposed of. No costs.

G T.N.A.

Appeals disposed.