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JAI PRAKASH SHARMA

v.

STATE OF U.P. AND ORS.

MARCH 20, 1997

B

[K. RAMASWAMY AND S. SAGHIR AHMAD, JJ.]

*Service Law :*

*U.P. Intermediate Education Act, 1921 :*

C

*S. 16-E(2)—Headmaster of High School—Appointment—Qualification—Junior High School Upgraded as High School—Post of Headmaster advertised—Headmaster of Junior High School and others applied—Headmaster of Junior High School not selected as he did not have requisite experience—He challenged appointment—Held, since the writ petitioner/appellant has not completed the requisite experience to be eligible to the post of Headmaster, the selection of the respondent made by the selection committee is correct in law—U.P. Secondary Education Services Commission Rules, 1983.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 17 of

1986.

From the Judgment and Order dated 3.9.85 of the Allahabad High Court in W.P. No. 174 of 1985.

D.K. Garg and Satpal Singh for the Appellant.

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R.C. Verma for R.B. Misra, (Pramod Swarup) (NP) and Mrs. Rani Chhabra for the Respondents.

The following Order of the Court was delivered :

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This appeal by special leave arises from the judgment of the Division Bench of the Allahabad High Court, made on September 3, 1985 in CMWP No. 174/85.

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The admitted position is that the appellant was working as a Headmaster in a Junior High School from July 1974. In July 1976, the school was upgraded as a High School. The question had arisen for appointment

of Headmaster to the said school. An advertisement was made for selection of the Headmaster. The appellant along with others had applied for and the Selection Committee constituted under Section 16-E of the U.P. Intermediate Education Act, 1921 selected the fifth respondent to the said post. Calling in question the selection of the fifth respondent, namely, Man Singh Verma, the appellant filed a writ petition and obtained stay. The writ petition was dismissed by the High Court, holding that the appellant was not possessed of the requisite qualification of four years' experience and, therefore, the selection was not vitiated on that count.

Shri D.K. Garg, learned counsel for the appellant contends, that since at the time of upgradation of the school as full-fledged High School, the appellant was already having the requisite experience, and was working on *ad hoc* Headmaster, he would have been confirmed as promotee; therefore, the selection by the Committee was not necessary. Hence, the view of the High Court is not correct in law. We find no force in the contention. It is seen that under Regulation 2(1) of the Regulations made under the Act, the post of Head of an institution shall be filled by direct recruitment, after reference to the Selection Committee constituted under sub-section (1) of Section 16F or, as the case may be, under sub-section (1) of Section 16FF. Appendix A of Part V attached to the U.P. Secondary Education Services Commission Rules, 1983 lays down the qualifications which postulates "with an experience of teaching for at least four years in a training institution recognised by the Department or in higher classes of a recognised higher secondary school or in both combined or having at least four years' experience as a trained Graduate Headmaster of a Junior High School recognised by the Department, provided also that he/she is not below 30 years in age."

The post of Headmaster under Section 16-E(2) has to be filled in by promotion or by direct recruitment after due publication by the Committee. The proviso to sub-section (3) should not be used as a routine for exempting the persons who were not possessed of the requisite qualifications as a short route to appoint unqualified persons to the post of Headmaster. It should be used sparingly and not as a routine, with all reasons for such an appointment which would be subject to judicial review.

It is seen that the appellant was appointed in July 1974, as the Headmaster of a Junior High School which was upgraded in the year 1976.

- A Thus, he did not have the experience of four years as a Headmaster of a Junior High School. Though Shri Garg has placed before us the previous experience of the appellant at different places, they are only in his capacity as Assistant Teacher, for the years 1964-65, 1965-66, in the Higher Secondary School, he is said to have worked as Headmaster for two years. It is
- B seen that since he has not completed the requisite experience to be eligible to the post of Headmaster, the selection of fifth respondent made by the Committee constituted by the Inspector in this behalf, is correct in law.

The appeal, therefore, fails. It is accordingly dismissed. No costs.

R.P.

Appeal dismissed.