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HIGH COURT OF JUDICATURE AT ALLAHABAD

Court No. - 39

Case :- WRIT - A No. - 51169 of 2016

Petitioner :- C/M, D.A.V. Post Graduate College And Anr.

Respondent :- State Of U.P. And 4 Ors.

Counsel for Petitioner :- Sudhir Dixit, Anupam Shyam Dwivedi, Satya Bhushan Singh

Counsel for Respondent :- C.S.C., Mangla Prasad Rai

Hon'ble Dilip Gupta, J.

Hon'ble Abhai Kumar, J.

The Committee of Management of D.A.V. Post Graduate College, Bulandshahar and its Manager have filed this petition for quashing the Government Order dated 31 August 2016 by which the Lecturer-Library in non-aided Post Graduate Colleges have been given the same benefit as available to the teachers including the benefit of continuing in employment even after attaining the age of superannuation upto the end of the academic session.

The petitioners have also sought quashing the communication dated 16 August 2016 sent by the Director of Higher Education to the Special Secretary in the State Government for issuance of a Government Order to provide the same benefits to Lecturers-Library working in non-aided Post Graduate Colleges as were available to the other teachers of the institution in view of certain decisions of the Courts.

It transpires from the record of the writ petition that Dr. Ram Avatar Sharma-respondent No.5 had filed a writ petition bearing Writ-A No. 49118 of 2016 raising the grievance that the benefit of continuing in service upto the end of the academic session after attaining the age of superannuation was not being granted to him. On the basis of the instructions given by the Director of Higher Education, the writ petition was disposed of on 17 October 2016. The Director of Higher Education had stated in the instructions that the petitioner would be entitled to continue upto the end of academic session in view of the Government Order dated 31 August 2016.

This petition now filed by the Committee of Management of the institution seeks to not only to assail the Government Order dated 31 August 2016 but also the recommendations made by the Director of Higher Education for issuance of necessary Government Order. It has been submitted by the learned counsel for the petitioner that the benefit of continuing in service upto the end of the academic session even after attaining the age of the superannuation can be provided to the teachers only and since Lecturers-Library do not impart any teaching work, the benefit of the academic session should not be granted to them. It is, therefore, submitted that the Government Order dated 31 August 2016 should be set aside.

Learned Standing Counsel appears for respondent Nos. 1, 2 and 3 while Sri Mangla Prasad Rai, appears for the Chaudhari Charan Singh University, Meerut.

The Director of Higher Education has sent the recommendations by letter dated 16 August 2016 to the State Government for issuing a Government Order to provide the same benefits to Lecturers-Library in non-aided Post Graduate Institutions as were being provided to the teachers of such Institutions. The letter refers to the recommendations made by the University Grants Commission as also the decision of

the High Court in Writ Petition 1303 (S/B) of 2005 (Uttar Pradesh Library Association v. State of U.P. and Others) and the dismissal of the Special Leave Petition against the said judgment. It is on the basis of the said recommendation that the Government Order dated 31 August 2016 was issued.

It is pointed out that the Librarians have now been designated Lecturer-Library and are getting the same pay scale as being paid to the Lecturers. It is for this reason that it was considered appropriate by the State Government to grant the same benefit to such Lecturers-Library as was available to the other teachers of the institution. The Government Order, therefore, cannot be said to be unreasonable or arbitrary. It is for the State Government to decide as to whether the Lecture-Library would be entitled to the same benefit as available to the teachers of the non-aided Post Graduate Institutions and a decision has been taken. We, therefore, see no good reason to interfere with the policy decision taken by the State Government.

It also clearly transpires from the record of the writ petition that earlier Writ Petition bearing Writ-A No. 49118 of 2016 was filed by Dr. Ram Avtar Sharma who has been impleaded as respondent No.5 in this petition. This petition was contested by the Principal of the Institution. The Principal had in fact filed a counter affidavit and had placed reliance upon earlier decision taken by the Government on 19 October 2012 to deny the benefit to the Librarians. This was not accepted by the Court in view of the subsequent Government Order dated 31 August 2016 and the petition was disposed of on 17 October 2016 in terms of the instructions given by the Director of Higher Education.

It is after the High Court had issued directions and disposed of the writ petition on the basis of the instructions issued by the Director of Higher Education that the Committee of Management has now filed this petition to assail the Government Order. This petition, therefore, deserves to be dismissed with costs. The writ petition is, accordingly, dismissed with costs of Rs. 10,000/- which the petitioners shall deposit before the Registrar General of the Court within a period of one month from today. On deposit of such cost, it shall be transmitted to the account of Allahabad High Court Mediation and Conciliation Centre. If the petitioners fail to deposit the said cost, the Registrar General of the Court shall inform the District Magistrate for recovery of the said amount as arrears of land revenue and after recovering the said amount, it shall be transmitted to the Registrar General of the Court for depositing it in the account of Allahabad High Court Mediation and Conciliation Centre.

Order Date :- 25.10.2016

Akram

(Abhai Kumar,J.) (Dilip Gupta,J.)