

2022 LiveLaw (SC) 341

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

HEMANT GUPTA; V. RAMASUBRAMANIAN, JJ.

CIVIL APPEAL NO(S).7841 OF 2011; 31ST MARCH, 2022

MAN SINGH *VERSUS* THE STATE OF UTTAR PRADESH THROUGH SECRETARY & ORS.

Service Law - Even if the appointment was irregular, the appellant had discharged the duties and in lieu of duties, he had to be paid. The State cannot take any work from any employee without payment of any salary.

For Appellant(s) Mr. Gautam Kumar Laha, Adv. Mr. Praveen Agrawal, AOR Mrs. Kiran Mahato, Adv. For Respondent(s) Mr. S.R. Singh, Sr. Adv. Mr. Ankur Prakash, AOR

ORDER

The challenge in the present appeal is to an order passed by the Division Bench of the High Court of judicature at Allahabad dated 05.10.2009 whereby an intra Court Appeal was dismissed.

The Single Judge in its order dated 11.05.2000 maintained the order dated 24.12.1998 of cancellation of appointment of the appellant as Principal on account of violation of Chapter 3 Rule 4 of U.P. Educational Manual prescribes that a close relation mentioned in said Rule cannot be appointed as Principal.

The appellant was appointed as a principal in the year 1974-75 when junior High School was upgraded as High School and was recognized by the State Government. Thus, the appellant has worked for almost 24 years before the services came to be cancelled for the reason that he is relative of the member of the Selection Committee.

The order dated 24.12.1998 also records that the money be recovered from the appellant which has been paid to him, as a result of his irregular appointment for the post of Principal.

We find that the High Court has failed to consider the fact that even if the appointment was irregular, the appellant had discharged the duties and in lieu of duties, he had to be paid. The State cannot take any work from any employee without payment of any salary.

Consequently, we find the order passed by the State Government dated 24.12.1998 is wholly illegal and untenable. The High Court should have been appreciated the facts in the proper perspective and should have set aside the same. It appears that after the order was passed on 24.12.1998, the appellant was not working on the post of Principal.

Therefore, we set aside the order dated 24.12.1998 and direct the respondents to treat appellant as retired on the date of the order i.e. 24.12.1998 and to pay pensionary benefits, if any, due to him for the services rendered.

The appeal stands allowed in above terms.

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