

Dileep Kumar Batham vs State Of Up And 4 Others on 2 January, 2025

Author: Saurabh Shyam Shamshery

Bench: Saurabh Shyam Shamshery

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:185

Court No. - 10

Case :- WRIT - A No. - 15625 of 2024

Petitioner :- Dileep Kumar Batham

Respondent :- State Of Up And 4 Others

Counsel for Petitioner :- Arvind Srivastava IIII

Counsel for Respondent :- C.S.C.,Nand Lal Pandey,Suyash Pandey

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Arvind Srivastava, learned counsel for petitioner, Sri Harikant, learned Standing Counsel for State-Respondents and Sri Suyash Pandey, Advocate for Respondent-College.
2. It is not in dispute that petitioner before this Court and Respondent-5 were appointed as Class-IV employee in Chaudhary Vishambhar Singh Bhartiya Vidyalaya Inter College, Auraiya on same date as well as Respondent-5 is elder to present petitioner. However, since petitioner was given joining at the first instance, therefore, Respondent-5 remained always junior to him.

3. Above position remained for a long time and present dispute arose when an occasion arose for promotion from Class-IV to Class-III and when on basis of a representation of Respondent-5, he being elder to petitioner, was proposed for promotion.

4. Learned counsel for petitioner submits that an objection was raised by petitioner that since he is senior to Respondent-5, therefore, he was entitled for consideration at the first instance. Matter was reached upto District Inspector of Schools, Auraiya and said officer vide communication dated 12.09.2024 has sought report from College concerned on the issue.

5. Learned counsel appearing for Respondent-College refers a supplementary affidavit (which ought to be a counter affidavit) that a proposal has been adopted by College in the meeting of Committee of Management dated 07.01.2024 that in terms of established principle, in such circumstances the elder person is to be considered senior, therefore, Respondent-5 was put ahead of petitioner in seniority list and a reply is being submitted that matter is still seized with District Inspector of Schools, Auraiya.

6. Learned counsel for petitioner refers a judgment passed by this Court in Virendra Singh vs. State of U.P. and others, 2013(2) ADJ 761 and submits that Respondent-5 was not even qualified when vacancy for Class-III arose. He, however, fairly submits that this issue has not been raised earlier possibly due to no such exigency arose.

7. Learned counsel appearing for Respondent-College and learned Standing Counsel submit that since matter is still pending before District Inspector of Schools, Auraiya, who will take an appropriate decision and if necessary both parties may also be heard.

8. In aforesaid circumstances, since matter is seized with District Inspector of Schools, Auraiya, therefore, this writ petition is disposed of with observation that said Officer may take a reasoned decision within a period of four weeks from today and if necessary petitioner and Respondent-5 may be heard.

Order Date :- 2.1.2025 AK