

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9054 OF 2011
(Arising out of SLP(C) No.17189/2009)

VISHWA MOHINI

Appellant(s)

:VERSUS:

DISTRICT INSPECTOR OF SCHOOLS 2nd & ORS.

Respondent(s)

O R D E R

1. Delay condoned. Leave granted.
2. The appellant was appointed on ad hoc basis on the post of Assistant Teacher by the Management of the Adarsh Balika Higher Secondary School, P. Road, (Gandhi Nagar) Kanpur Nagar, U.P. against leave vacancy. Her appointment was not approved by the District Inspector of Schools and it was communicated to the management vide letter dated 15.10.1996 mentioning therein that if the appellant is allowed to continue in service, her salary will have to be paid by the management. The appellant made a representation to the respondents upon which no action was taken.

3. The appellant thereafter filed a writ petition before the High Court of Judicature at Allahabad which was dismissed by the High Court. The learned Single Judge of High Court found that the appellant was appointed for a short term by the management and since Smt. Manju Lata Bajpai, Assistant Teacher, who was on long leave had retired, substantive vacancy occurred and against the substantive vacancy the management had no right to make short term appointment.

4. The appellant preferred an appeal against the dismissal of the writ petition before the Division Bench of the High Court. The Division Bench upheld the order of the learned Single Judge and dismissed the appeal.

5. We have heard the learned counsel for the appellant as also the learned counsel for the respondents.

6. In the peculiar facts and circumstances of this case, we are of the considered view that interest of justice would meet if the appellant is

paid for the period she worked with the concerned school. Accordingly, we direct respondent Nos.1 to 4 to pay the salary of the appellant for the period she worked, within eight weeks from today. However, the District Inspector of Schools and the State of U.P. would be at liberty to recover that amount from the management of the school or from any other individual.

7. The impugned order is accordingly set aside and the appeal is disposed of with the aforementioned observation and direction. Parties are directed to bear their own costs.

.....J
(DALVEER BHANDARI)

.....J
(DIPAK MISRA)

New Delhi;
October 31, 2011.