

(2000) 07 SC CK 0016

In the Supreme Court Of India

Case No : C. A. No. 2100, 2101, 2102 of 1997 with WP (C) No. 164 of 1997

Dhyan Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 19-07-2000

Acts Referred:

Citation : (2000) 10 JT 436 : (2002) 10 SCC 656 : (2001) 1 SCT 472 : (2000) 87 FLR 343 : (2001) 1 LLJ 324 : (2001) 2 UC15

Hon'ble Judges : U. C. Banerjee, J; G. B. Pattanaik, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

G.B. Pattanaik and U.C. Banerjee, JJ.—These appeals and the writ petition raised the common question as to whether the services rendered as an Adult Education Supervisor under a non-formal Education Scheme, evolved by the State of Haryana, can be counted for the purpose of granting pensionary benefits as well as for the purpose of fixation of his pay, when such an employee is recruited to a regular post under the State Government either with or without break of service. Needless to mention that these appellants after having served for a number of years under the Rural Education Literacy Project/State Adult Education Programme, the Scheme itself under which they had been discharging their duties stood abolished, and consequently the appellants ceased to be employees. They had approached this Court in a writ petition which was registered as Writ Petition No. 1040/1990 seeking a mandamus to the State Government for their absorption in any regular cadre of the State Government. In the said case, the counsel appearing for the State of Haryana fairly stated that the Government is prepared to absorb the applicants in the State's service as and when vacancies in the cadre of Social Studies Teachers and Masters are available, and on the basis of the said statement made by the counsel appearing for the State of Haryana the writ petition was disposed of with the direction that the Government should utilise the past experience of these persons by absorbing them suitably as

and when vacancies would occur in the post, as already stated. Pursuant to the said direction of this Court, the appellants were recruited to the post of teachers on different dates in the year 1993, and they were taken in as fresh recruits. Their salary having been fixed at the initial stage of the scale of pay for the post in question, the appellants, therefore, approached the High Court seeking relief that their scale of pay should be fixed up taking the past services into account, and that their past services rendered under the scheme should also be taken into account for the purpose of deciding their pension. The High Court relying upon the Circular issued by the Government on November 13, 1995 came to the conclusion that no part of the services rendered by appellants as Supervisors in the Adult Education Scheme can be considered either for the purpose of determining the initial amount of salary which they would get on their regular absorption nor can the same be taken into account for deciding the pensionary benefits, ultimately, which the appellants would receive on superannuation from the regular services. It is this judgment of the High Court, which is the subject matter of challenge in these appeals Mr. Pankaj Kalra, appearing for the appellants strenuously contended that by judgment of this Court the appellants having been given the regular pay scale while continuing as an Adult Education Supervisor under the Scheme on the basis that they were discharging the full time duties there is no rationale to deny the relief sought for by the appellants in the writ petition. Mr. Kalra also contended that the High Court was totally in error by coming to the conclusion that the appellants had rendered as part-time Supervisors, which is belied by the earlier decision of this Court. He further contended that since under the Government Rules and Regulations the temporary employees, the ad hoc employees and the work-charged" employees are entitled to count their services for the purposes of getting the pensionary benefits, it would not be fair to discriminate this particular group of employees, though undoubtedly, they had served the period under a particular scheme. Having considered the two contentions made, and having applied our mind to the Rules and Regulations, that was shown to us, we are not in a position to accept either of the contentions raised by Mr. Kalra. The continuance/engagement of the appellants under the specific scheme cannot be held to an employment under any establishment of the Government. Such schemes are taken up for certain contingencies when money for the same is provided either by the Central Government or at times by some foreign countries. But the employment under such scheme not being a part of the formal cadre of the State Government, it is difficult to hold that the period for which an employee rendered service under such scheme can be counted either for the purposes of deciding their pensionary benefits or even for fixing of their salary in the scale of pay once they are regularly absorbed. The judgment of this Court pursuant to which the appellants were absorbed as against regular post in the Government itself would indicate that the Court had taken a compassionate view, and not on any rights which flowed from the past services rendered by the appellants under the scheme in question, and that also under the concession of the counsel appearing for the State Government. We have not been shown any rules or regulations of the

State, which even confers pensionary benefits to such services rendered by the appellants. In this view of the matter, it is difficult for us to find any infirmity with the impugned judgment of the High Court. We therefore, see no merits in these appeals and the writ petition, which are accordingly dismissed, but in the circumstances there will be no order as to costs.