
(2010) 02 RAJ CK 0136
In the Rajasthan High Court

Kokila Sharma and Others

APPELLANT

Vs

State and Others (and Cognate as per Schedule annexed)

RESPONDENT

Date of Decision : 15-02-2010

Acts Referred:

Citation : (2010) 1 WLN 617

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Judgement

Ajay Rastogi, J.—All these petitions as per Schedule A attached herewith since involve common question, hence at joint request, are being disposed of by present order.

2. Counsel for petitioners jointly submit that petitioners were engaged/appointed as Vidhyarthi Mitra on contract basis till the persons regularly selected by Rajasthan Public Service Commission (RPSC) and Departmental Promotion committee are made available.

3. However, services of persons who were similarly situated while working as Vidhyarthi Mitra were terminated by respondents. A bunch of 633 writ petitions (CVVP-4652/2009 & cognate cases) were decided by this Court vide judgment dt. 08/05/2009 with operative part ad infra:

(36) Accordingly, the writ petitions are disposed of as under:

I. During continuation of the work, as detailed out herein above the invocation of the last extension is arbitrary and illegal; and the consequential automatic termination orders of the petitioners are set aside.

II. The RPSC/DPC selected candidates/employees are still not available and next academic session is about to start; even urgent temporary appointments under Rule 28 of the Rules of 1971 are not possible due to short span of one month and a half left to start with the process of admission, and academic session, therefore, as per the aims and objects of the Scheme, respondents are directed

to consider the cases of the petitioners for continuation in service till regularly selected candidates from RPSC/persons selected and recommended by the DPC for promotion are made available in the light of the above observations;

III. Even in case of appropriate order of continuation in service till regularly selected candidates from RPSC/DPC selected persons are available, the petitioners are not entitled for wages of the vacations, in other words, when the schools are closed.

IV. In case the regularly selected candidates from RPSC/persons selected and recommended by the DPC for promotion are made available, then the respondents can terminate services of the petitioners after preparation of the seniority list on the State level as per their date of appointment and merit assigned to them, by following the principle of "last come first go" to the extent of availability of the selected candidates and while doing so, the respondents will keep the interest of the present students and prospective students in view.

4. Counsel submits that since issue raised in instant bunch of petitions stands decided by co-ordinate Bench of this Court vide judgment (supra), these petitions may also be decided in the light thereof.

5. Counsel for petitioners further submit that in the light of judgment (supra), the directions have been issued by the Department of Elementary Education, Govt., of Rajasthan vide letter dt.11/08/09 to the Director of Elementary Education Bikaner to permit all such persons working as Vidhyarthi Mitra in present academic session but their continuance will be subject to final outcome of special appeals having been preferred by respondents State against judgment dt. 08/05/2009.

6. Some of the petitioners have raised their grievance that despite judgment dt. 08/05/09 of the Court and directions issued by State Government, they have not been permitted, to work/discharge duties as Vidhyarthi Mitra.

7. However, it has not been disputed by Government Counsel about controversy involved herein being decided by this Court vide judgment dt.08/05/2009 alongwith directions (supra) - against which, their only defence is that special appeals (SA (W)-1237/2009 & 525/2009 besides other cognate appeals) have been preferred by respondents State and wherein vide order dt.16/12/09, the Division Bench ordered ad infra:

Since in the impugned judgment, a direction exists at para 36(IV) with regard to termination of Vidhyarthi Mitra on the basis of State level seniority list, though appointments were not made on State level list, therefore, operation of aforesaid para 36(IV) may be stayed because in absencde of termination, selected candidates cannot be appointed.

Looking to the submission made, operation of the direction in para 36 (IV) of the impugned judgment shall remain stayed.

However, as regards contention of petitioners Government Counsel submits that directions have been issued by the department concerned, and District Education Officer/concerned officer will ensure that in the light of judgment dt. 08/05/09 (supra), the petitioners may be permitted to join and discharge their duties as Vidhyarthi Mitra; but their continuance will be subject to final outcome of special appeals preferred by respondents State, which has not been objected by petitioners" Counsel, as well.

8. In the light of what has been observed in CWP-4652/2009 vide judgment dt.08/05/2009 alongwith directions quoted (supra), all these writ petitions as per Schedule A attached herewith stand disposed of; and the District Education Officer/concerned officer will also ensure that in the light of judgment (supra), the petitioners shall be permitted to join and discharge their duties as Vidhyarthi Mitra; however, it would be subject to afore quoted stay order and, final outcome of special appeals (SA (W)-1237/09 & 525/2009 besides cognate appeals) would be binding upon all the petitioners, as well. No costs.