
(2001) 02 RAJ CK 0051

In the Rajasthan High Court

Case No : Civil Special Appeal No"s. 639 and 640 of 1995

Smt. Kulwant Kaur

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 19-02-2001

Acts Referred:

Panchayati Raj Rules, 1996 — Rule 296

Citation : (2001) 2 RLW 1109 : (2001) 2 WLC 570 : (2001) 3 WLN 474

Hon'ble Judges : Dr. AR. Lakshmanan, J;D.N. Joshi, J

Bench : Division Bench

Advocate : M. Mridul, R.N. Upadhyaya, for the Appellant; L.R. Choudhary, for the Respondent

Judgement

Lakshmanan, CJ.

(1). By consent of both parties, belli the appeals were taken up for final hearing. Both the appeals were preferred by Smt. Kulwant Kaur, the petitioner in Writ petitions No. 2973/94 and 1373/87. Writ Petition No. 1373/87 was filed by the appellant to quash the order dated 11.5.1987 and to stay the operation of the same during the pendency of the writ petition.

(2), By order dated 25.11.1983, the appellant was given appointment on temporary basis till the end of the academic session on the post of Teacher Gr. III by the Vikas Adhikari, Panchayat Samiti, Padampur and she was posted in Middle School, Village 1-CC. By order dated 4.5.84 the services of the teachers mentioned therein were brought to end from the afternoon of 16.5.1984. The appellant was relieved. Once again the appellant was given appointment to the very post by order dated 30.6.84 on temporary basis for a period of 6 months or till selected teachers are available whichever is earlier. It was staled in the said order that the services of the appellant can be brought to end without any notice at any time. By order dated 11.5.1987 once again the appellant's services were terminated because of the directions of the Director of Primary & Secondary Education dated 1.7.1986. According to the appellant a perusal of this direction

dated 1.7.86 will go to show that this is in respect of fixation of the salary of the teachers possessed of Tailoring Diploma and it is said therein that those of the candidates who obtained diploma from Jharparkar Training College, Bombay and in respect of whom recognition was given, cannot be given appointment in Primary schools under the control of the Panchayat Samiti as Tailoring Teacher's post is not there in the Panchayat Samiti. According to the appellant although the order dated 11.5.87 had been made but the same had not been formally served upon the appellant and no order relieving her from service was made on 16.5.84 when her service was brought to end. It is the contention of the appellant that she does not possess diploma from Jharparkar Tailoring College, Bombay and was never appointed as Teacher in Tailoring and she is a matriculate and has a certificate in Arts and Crafts from the Department of Industrial Training from Government of Haryana. It is in the aforesaid circumstances that the appellant preferred the writ petition on the grounds mentioned in the writ petition. It is submitted that the very assumption on the basis of which the services of the appellant had been brought to an end is that this is required to be done in pursuance of the direction dated 1.7.1986 which is in respect of the teachers possessed of Diploma in Tailoring from Jharparkar Tailoring College, Bombay and even assuming that it is applicable to the appellant, the services of the appellant could not be brought to an end until trained and duly selected teachers are available. The writ petition was admitted on 21.5.1987 by a Division Bench of this Court. The order dated 11.5.1987 (Annexure-4 to the writ petition) was stayed by the Division Bench on 21.5.1987 itself and the same was confirmed on 12.8.1993 by this Court. A reply was filed by the non-petitioners denying the allegation that the services of the appellant petitioner were terminated vide order dated 11.5.1987 not on the direction issued by the Director, Rural Development on 1.7.86 and that the petitioner appellant was served with the order dated 11.5.87 and the petitioner left the school without taking delivery of the order and in her place new teacher was appointed. It is also submitted that the termination of the petitioner appellant was due to her not having requisite qualification for the teacher for Panchayat Samiti because she was having ITI Diploma which is not recognized in the State of Rajasthan for primary education.

(3). S.B. Civil Writ Petition No. 2973/94 was filed by the appellant to quash the order dt. 31.5.1994 and for a direction in terms of direction made in Moinuddin's case.

(4). We have already noticed that the impugned order dated 11.5.87 was stayed by the High Court on 21.5.1987 and confirmed vide order dated 12.8.93. Thereupon the petitioner appellant produced marks-sheet to show that she obtained training in a two years course and aforesaid course contains subjects other than craft and despite the aforesaid once again order dated 31.5.1994 has been made terminating services of the appellant petitioner and that the same is being done due to the decision of the Supreme Court rendered in Shyam Lal's case. The said order has been furnished to the appellant on 27.6.94. This said order is accompanied with a banker's cheque of Rs. 4,941/-. According to the

appellant before making this order no notice was given to the appellant to show cause as to why her services should not be terminated. Under these circumstances, the writ petition No. 2973/94 had been filed, stating that the Supreme Court judgment had nothing to do with the qualification possessed by the appellant and that the course which was in issue in the case before the Supreme Court was six months' course in a particular trade and as against this the course which the appellant had done is of two years' duration and was not confined to craft such as Tailoring. Thus, it is submitted that the whole assumption on the basis of which the order was made was incorrect. By order dated 6.7.94, this Court stayed the order dated 31.5.94 and the appellant was allowed to continue in service even if she had been relieved earlier. The said order was continued till the disposal of the writ petition.

(5). The writ petition was heard by a learned Single Judge of this Court. The learned Single Judge in para 3 of the judgment observed as under:-

"It is apparent that the petitioner does not hold requisite qualifications For appointment to the post of Teacher Gr. Ill in the Panchayat Samiti and that the petitioner was appointed on temporary basis and as such, she does not have any right over the post. In State of Rajasthan Vs. Shri Shyam Lal Joshi and others, while considering the cases pf Primary" School Teachers, who do not have the qualifications for appointment to the post of Primary School Teacher, the Supreme Court has held that their position is just that of an untrained Teacher and as they do not fulfil the qualifications required for appointment to the post of Teacher Gr. Ill, their services cannot be continued. The petitioner's case is squarely covered by the decision rendered by the Supreme Court."

(6). In was argued before the learned Single Judge that the Director-cum-Special Secretary, Gramin Vikas & Panchayati Raj Department, Rajasthan, Jaipur had issued circulars on 27.2.1992 and 3.4.1993 whereby untrained teachers who were in job up to 16.12.1989 are directed to be given training and as such, unless the appellant is provided with this facility, her services could not have been Terminated. The learned Judge in para 5 of his judgment has observed as follows:-

"I have carefully gone through the circulars issued. AM that which is said in the circulars is that the State Govt. has taken a decision that untrained Primary School Teachers in Panchayat Samities appointed on contract basis or as ad hoc and who were in service on the date 16.12.89, shall be given training by correspondence course, the training will be at the cost of the trainees. In fact, in the circular dated 3.4.93, it is specifically made clear that the appointment to the post shall be given after successful completion of the training by regular selection. Thus, the circular only gives a right to the petitioner as she being in service on 16.12.89 to equip herself with the qualifications and the Stale Govt. shall provide a facility for the same. The circular nowhere says that till the qualifications are not acquired by the Teachers serving in the Panchayat Samiti Schools, they shall be continued in service."

(7). For the reasons aforesaid the learned Judge dismissed both the writ petitions and aggrieved of the common order in the above two writ petitions, both the civil special appeals have been filed.

(8). In the appeal, it is submitted that the qualification which the appellant had obtained is from the Department of Industrial Training, Haryana and that the appellant had obtained training in two years course and the course contains subjects other than craft and that the appellant had secured 40 marks out of 100 in Educational Psychology School Organisation's Method of Teaching (theory) and 92 marks out of 150 in Practice of Teaching. The appellant also placed on record of the writ petition, the order dated 3.4.93 (Annexure-10) which contained a direction those teachers who are in service on 16.12.1989 appointed either on contract basis or on ad hoc basis shall be given training on their own expenses from the Education institution at Udaipur. The appellant had also placed on record her marks sheet of the previous and final Art & Crafts Teachers training Examination 1981 issued by the Department of Industrial Training Haryana.

(9). We have heard M. Mridul, learned Sr. Advocate for the appellant in both the cases and Shri Vijay Bishnoi, learned counsel appearing for the respondents. It is alleged in para No.3 of the memo of appeal that the appellant's counsel brought to the notice of the learned Single Judge the judgment rendered by this Court in D.B. Civil Special Appeal State of Rajasthan vs. Loombsingh and also brought to the notice of the learned Single Judge, the decision rendered in S.B. Civil Writ Petition No- 2072/1994 and 269 other petitions decided on 27.5.1994 and the consequent order made by the Government wherein it was said that consequent to these judgments Government has, after examining the question as to whether the training course conducted by Vidya Bhawan, Udaipur and Parashuram, Jaipur viz-a-viz BSCT or not and to find if there is any difference between them and if so whether the same can be undone by making candidates undergo a bridge course. The Government has decided that the services of those possessed of training course imparted by Vidya Bhawan, Udaipur and Parashuram, Jaipur who have been duly selected will not be terminated and if terminated, consequent to circular dated 7.4.94 will be taken back in service after an undertaking being taken from them that on being required they will have to pass the bridge course of specified duration in specified training centres on their own cost and on their failure-so to do their services will be terminated.

(10). It is submitted by the learned Sr. Counsel appearing for the appellant that the learned Single Judge has not stated a word in regard to the submission made on the basis of the Division Bench judgment and the judgment in aforesaid writ petitions and consequent order made by the Government of Rajasthan in this respect. When a question put by this Court as to why the appellant has not preferred any review petition before the learned Single Judge, it was replied that normally when a particular submission is made before a particular Bench and the same has not been dealt with by the said Bench then the person concerned is required to make a review application but in this case it is not necessary to do so

as the appellant is relying upon the judgments of this Court which are of binding nature. The appellant can, therefore, be relieved of requirement of making a review petition.

(11). In the grounds it is submitted that the judgment of the learned Single Judge is contrary to the Division Bench Judgment of this Court in State of Rajasthan vs. Loomb Singh (1). Without prejudice to the above contention an alternative submission was made that the impugned judgment is contrary to the decision rendered in S.B. Civil Writ Petition No. 2072/1994 etc. and the consequent order made by the Government wherein it was said that consequent to these judgments, Government has, after examining the question as to whether the training course conducted by Vidya Bhawan, Udaipur and Parshuram, Jaipur viz-a-viz BSTC to find If there is any difference between them and if so whether the same can be undone by making candidates undergo a bridge course has decided that services of those possessed of training course imparted by Vidya Bhawan, Udaipur and Parshuram Jaipur who have been duly selected will not be terminated and if terminated, consequent to circular dated 7.4.1994, will be taken back in service after an undertaking being taken from that on being required they will have to pass the bridge course on their own cost and on their failure so to do their services will be terminated. Though the question in issue in aforesaid writ petitions was different but its ratio can not but apply to the instant case. Thus, the judgment aforesaid stood as a precedent which warranted the writ petition of the petitioner to be allowed in the terms of aforesaid judgment and consequent direction issued by the Government.

(12). In D.B. Civil Special Appeal No. 640/1995, a specific ground in the following terms had been taken in para 4:-

"That in the 2nd writ petition the termination of services was ordered vide order dated 31.5.94, supposedly, on account of Supreme Court judgment dated 16.11.93 wherein it was held that teachers possessed of training in Craft and Tailoring are not qualified to be appointed as Gr. III teachers consequent to which direction has been made by the Director and Special Administration Secretary vide his order dated 7.4.94 as also by the Chief Executive Officer, District Establishment Committee, Sri Ganganagar. The appellant maintains that the dismissal of this writ petition by the impugned order is illegal in view of the fact that the order of termination made in the second writ petition was illegal".

(13). The submissions made by the learned counsel for the appellant was countered by the learned counsel appearing for the respondents. The learned counsel for the respondents submitted that the order passed by the learned Single Judge is not unreasonable and arbitrary and that the appellant was removed from the service not only on the ground mentioned in the order 1.7.86 but also the appellant was not having proper qualification as mentioned in the order dated 9.5.87 and that appointment will be given to those teachers who are eligible according to Annexurei-R/4. In support of his contention, the learned counsel for the respondents has placed reliance on Ram Sukh and Others Vs.

State of Rajasthan and Others, and State of Rajasthan Vs. Shri Shyam Lal Joshi and others,

(14). Shri Mridul, learned Sr. Counsel submitted that the order of termination which was made pursuant to the order of the Director dated 1.7.86 is bad in law and that the diploma obtained by the appellant was recognised for the purpose of appointment vide orders dated 28.8.74 and 15.4.78 as referred to in the order dated 1.7.86. It further says that the appointment is given to those possessed of this diploma by treating as trained but the government had quashed the orders dated 28.8.74 and 15.4.78 and had directed that those who were possessed of this qualification are not entitled to be appointed. The appellant's services were once again terminated vide order dated 31.5.95 and second writ petition was filed and stay order was granted and both the writ petitions have been dismissed by a common judgment impugned in these appeals. In the appeal also a stay order was granted staying operation of the order of termination and asking the appellant to be taken back in service. That those possessed of aforesaid diploma in Tailoring from Jharparkar College, Bombay preferred writ petitions in this Court being Shakti Raj Singh & ors. vs. State of Rajasthan & Anr. (5). Those writ petitions were allowed vide order dated 16.1.1987 by a learned Single Judge of this Court (Hon'ble Mr. Justice S.C. Agarwal). All those writ petitions were filed challenging the validity of the order dated. 1st of July, 1986 passed by the Special Secretary to the Government of Uajasthan, Rural Development & Panchayati Raj Department, relating to the appointment of persons having a Diploma in Tailoring from Jharparkar Tailoring College, Bombay as teachers in various Panchayat Samities in the Slate of Rajaslhah. The learned Judge, after an elaborate discussion has observed as under:-

"Furthermore, I find that under the Rules, there is no provisions for direct recruitment of an untrained person as a Primary School Teacher and i.t is, therefore, difficult to appreciate how the appointment of the petitioners could be treated as that as an untrained teacher. The order dated 1st July, 1986 whereby it has been directed that the petitioners should be treated as untrained teachers and paid their salary on that basis done not appear to be in accordance with the Rules."

(15). For the aforesaid reasons, the learned Single Judge was of the opinion that the persons who have been appointed as primary school teachers after being selected by the Commission in pursuance of the advertisement dated 31st May, 1983 and the advertisement issued by the Commission prior to 31st May, 1983 cannot be reduced to the pay scale payable for untrained teachers. Similarly with regard to teachers who have been appointed temporarily and who have been not selected by the Commissioner, and some of them have been working for a considerable period and their appointment was made on the basis that they were trained teachers in view of the orders that were issued by the State Government from time to lime holding that the diploma of Jharparkar Tailoring College, Bombay was recognised for purpose of appointment on the post of teachers in

the Panchayat Samitis. In the circumstances the learned Judge has observed that it cannot be said that the appointment of these persons as Primary School Teachers was illegal and that though they have not been regularly selected by the Commission, their appointment is subject to the availability of the regularly selected/trained teachers. For the aforesaid reasons, the learned Judge issued the following directions.

"For the reasons aforesaid, direction (1) in the order dated 1st July, 1986 which directed that the diploma holders who had obtained their diploma from Jharparkar Tailoring College, Bombay up to the session 1977-78 and who have been regularly selected (or appointment on the post of Primary School Teacher in various Panchayat Samities by the Commission on the basis of advertisement dated 31st May, 1983 and earlier advertisements, should be treated as untrained teachers and should be paid salary as untrained teachers from 1st July, 1986, is set aside and it is directed that such diploma holder are entitled to be treated as trained teachers and paid the salary on that basis. Similarly direction (2) in the said order dated 1st July, 1986 in so far as it directs that diploma-holders from Jharparkar Tailoring College, Bombay, who had obtained the said diploma up to the session 1977-78 and who are not regularly selected by the Commission, but have been appointed on temporary posts of Primary School teachers in the Panchayat Samities, should be paid salary as untrained teachers from 1st July, 1986, is set aside and it is declared that the said teachers as long as they are kept in employment, should receive the salary as trained teachers. The further direction that services of such teachers are liable to be terminated in the event of regularly selected trained teachers being available is upheld. Direction (3) contained in the order dated 1st July, 1986 that no person holding a diploma from Jharparkar Tailoring College, Bombay should be appointed on the post of teacher in future is upheld.

The writ petitions will stand disposed of in terms of the aforesaid order. There will be no order as to costs".

(16). Relying upon the above judgment, five writ petitions were disposed of at the Principal Seat by Hon'ble Mr. Justice R.S. Verma vide judgment dated 22nd of November, 1990. Paras 20 and 21 of the judgment can be usefully noticed:-

"20. The equities in the present cases are just different. As already pointed out, the various petitioners have served under different Panchayat Samities for long periods, though the appointments made in their favour were temporary and used to be terminated at the end of the Academic Session. All the petitioners had obtained training which was initially recognised and had been de-recognised by the time they obtained their Diplomas. The petitioners had undergone the course of training prior to the de-recognition of the Diploma."

"21. As already stated under an interim order of the Court the petitioners were selected by the appropriate commission and have also been provisionally appointed. If these petitioners are now thrown out of job, it will totally ruin them,

in as much as all of them have now become overage for government jobs. Here it would be appropriate to refer to affidavit of Lumb Singh filed on 30.9.90 in S.B. Civil Writ Petition No. 2G23/84. The relevant portions of this affidavit have already been quoted above, wherein it was mentioned that the entire services rendered by him from the date of his first appointment have been taken into account for the purposes of seniority and for the purposes of increments etc. Ratan Singh is one of the petitioners before me and the cases of the other petitioners are not different from that of Ratan Singh. Therefore, I am of the opinion that all the petitioners including Ratan Singh should not be treated differently from other teacher who are similarly situated and to whom reference was made in S.B. Civil Writ Petition No. 1706/84- Ratan Singh versus State of Rajasthan in para C-3. I may here point out that in Shakti Raj . Singh's case (supra), Hon'ble S.C. Agarwal, J, as he then was, granted limited relief in view of the fact that some of the petitioners were not regularly selected by the commission but had been appointed purely on temporary basis in Panchayat Samitis. In the present case, the situation has changed because the petitioners have already been selected by the appropriate commissioner. In these circumstances, I declare that the training received by the petitioners is proper training for appointment to the post of Crafts Teacher, Gr. III under Primary Schools run by Panchayat Samitis."

(17). The above five writ petitions were disposed of by Mr. Justice R.S. Verma in the terms of the aforesaid order.

(18). The appeals were taken by the State Government against the judgment of Hon'ble Mr. Justice R.S. Verma which were dismissed by a Division Bench of this Court vide judgment dated 11.7.1995. For the petitioners Loombsingh, Raghuveer Singh and Guman Singh, who had obtained B.Ed, degrees, directions were made to regularise their services and for the rest it was said that they be given one and last opportunity to successfully complete the desired, training within a period of two years from the date of judgment and after successfully completing their training their services be also regularised. This judgment was rendered by the Division Bench consisting of Hon'ble Mr. Justice Jas Raj Chopra and Hon'ble Mr. Justice P.K. Palli. Paras 13 and 14 of the judgment can be reproduced for the sake of convenience:-

"13. In case the respondents Loomb Singh, Raghuveer Singh and Guman Singh who are said to have obtained B.E.d. degrees are found not to be possessing the same then they too are given one and last opportunity as given to the other respondents for completing the desired training within a period of two years and their services shall also be regularised on successful completion of the training. If in spite of this opportunity all the aforesaid respondents do not qualify the course and the training their services would be liable to be terminated forthwith."

14. These appeals are, thus, disposed of in the aforesaid terms and the order and judgment passed by the learned Single Judge, thus, stands modified to this extent."

(19). The State Government went in appeal by way of SLP No. 2985-2991/96. These Special Leave Petitions were dismissed by the Hon''ble Supreme Court vide order dated 28.7.97. The order of the Supreme Court reads thus:-

"An additional affidavit of Raghubir Singh has been filed on behalf of the respondent. Copies of the order of the Government of Rajasthan dated January 12, 1996 (Annexures AP 9 of the affidavit) indicates that the Government has taken a decision to give training by correspondence course to teachers appointed on contract basis or on adhoc basis who are in service on December 16, 1989 or prior to that. The respondents in these cases were in service on that date and they are entitled to the benefit of the said decision. In view of the said order of the State Government the impugned judgment of the High Court does not call for interference by this Court. The Special Leave Petitions are disposed of accordingly."

(20). It will thus appear that notwithstanding judgment in State of Rajasthan Vs. Shri Shyam Lal Joshi and others, , the Hon''ble Supreme Court took the view that the government itself had taken a decision to give training by correspondence course to teachers appointed on contract basis or on ad hoc basis who were in service on December 16, 1989 or prior to that and were entitled to the benefit of the said decision and in view of the said order of the State Government the impugned judgment of the High Court does not call for interference by this Court.

(21). As far as the appellant is concerned, she is continuing in service by virtue of the stay orders passed by this Court as already noticed in the paragraphs (supra), she was not sent for training despite orders being made by the Government and by this Court.

(22). Our attention was invited to the cases of teachers possessed of a Diploma from Vidya Bhawan Handicraft Institute, Udaipur and other institutes. Services of those temporary teachers were sought to be terminated on the ground that the qualification of training possessed by them does not make them eligible for appointment as teachers. They approached this Court by S.B. Civil Writ Petition No. 2120/1994 and other writ petitions, which were disposed of vide judgment dated May 17, 1994 by Hon''ble Mr. Justice V.S. Kokje.

(23). We have perused the said judgment. The learned Judge has held that though untrained teachers can not be continued in service, the State Authorities have not applied their mind for the purpose of arriving at the conclusion that diploma possessed by the appellants was equivalent to the qualification required and while directing that appellant shall be reinstated in service with all consequential benefits, left the Government free to decide at a proper level as to whether the qualifications held by the appellant are equivalent to eligibility qualifications prescribed by the State Government and secondly that in the case of several totally untrained teachers the State Government has formulated a scheme for giving training and allowing them to acquire requisite qualification within a time frame and object budget allocations have also been made but the

scheme has not made much head way. The State Government may within its means take such decision in this regard and make arrangements for training in its discretion.

(24). A special appeal was taken against this judgment being D.B. Civil Special Appeal No. 266/1994, which was disposed of vide order dated 1.11.95 because the Court was informed that the Government had taken a decision to subject those candidates to a bridge course and regularise their services on successful completion of the same.

(25). It is also brought to our notice that the Government took a decision to impart training to inservice untrained teachers first by order dated 10.6.87 followed by orders dated 17.5.89, 27.1.92, 7.1.93 and again by later orders dated 23.3.93, 12.1.96, 5.2.97, and 7.2.97 many untrained inservice teachers were sent for training in a phased manner and directions to do so were also passed by this Court in number of judgments. However, the appellant purposely was not sent for training because of the pendency of her petitions and then these appeals.

(26). The Government vide communication dated 9.12.99 informed the Panchayat Samitis that the Government has decided to give appointment to teachers appointed on contract basis as also who had passed the vocational course followed by a bridge course and action accordingly may be taken. An English translation of this document was also produced before us which reads thus:-

"GOVERNMENT OF RAJASTHAN

PANCHAYATI RAJ DEPARTMENT

S.No. E. 139(14-2) PRD/EDU/APPT/99/1235 JAIPUR 9.12.1999

Additional Executive Officer

All Zila Parishads (Except Karoli).

Sub : For appointment of contract/vocational passed candidates.

Ref: Departmental letter No. F.0139 (14) P. Raj. Dept.

Edu/App/99/1148 dated 25.11.99

In above subject it is clarified in reference to authentic letter of department that under the advertisement No. 98 the appointment is to be given on sanctioned posts of teachers to the candidates who have passed vocational examination and stand in merit by reserving reasonable posts after completion of bridge course by them.

In this order appointment is to be given only to those contract teachers who have got collected minimum eligibility for the post of teachers.

As per the information given to head quarter the list is enclosed of contract/ candidates who have passed vocational education. Accordingly after performing the process of appointment, the weekly report be sent to headquarter.

sd/-

Ashish Bahguna,

Secretary, Panchayati Raj Dept.

Copy to : District Collector All."

(27). Consequent to this appointments were given to teachers who were earlier appointed on contract basis when they did not have the requisite qualification but had acquired qualifications in the meanwhile. Later on, the Government however, decided to terminate their services. Against termination of their services writ petitions were filed in which a stay was granted but later on the same was vacated. Against that, we are told, that the appeals were taken in the Division Bench and the appeals were allowed vide order dated 13.11.2000 (D.B. Civil Special Appeal No. 1056/2000 etc. and Batch of appeals). In the meanwhile on 30.8.2000, the Panchayati Raj Department, Government of Rajasthan issued a notification No. S.No. Pan. Raj. D./Law/Writ/2000, Jaipur Dated 30.8.2000 providing that those appointed on contract basis when they did not have qualification but have in the meanwhile acquired qualifications be appointed according to earlier guidelines. The english translation of the notification, placed before us reads thus:-

"GOVERNMENT OF RAJASTHAN

PANCHAYATI RAJ DEPARTMENT

S.No. PAN.RAJ. D./LAWAVRIT/2000 JAIPUR dated 30.8.2000

To District Collector (All).

Subject: In regard to appointment - Vocational/Contract/Teachers.

In above mentioned subject it is mentioned that in compliance of decision rendered by Hon'ble High Court of Judicature for Rajasthan, Jodhpur in writ petition No. 1321/2000 dated 10th May 2000 the Government has examined the decision of Council of Ministers and various guidelines issued from time to time in regard to vocational Education passed candidates and contract teachers in reference to all rules for appointment of teachers. It has been found that under Rule 296 of Panchayati Raj Rules, 1996 the guidelines for relaxation in selection process issued by Government of Rajasthan, are justified.

The candidates holding vocational education who have passed specially allotted bridge course Examination and who have been selected in select list prepared in pursuance of advertisement issued in 1998, be given appointment in order of their place in merit list. Contractual teachers who passed educational eligibility as per rules and got trained also be given appointments according to earlier

guidelines. For the purpose of appointment the restriction for 1210 days service period is hereby abolished.

State Government be informed accordingly by the action taken.

sd/-

Secretary, Panchayati Raj Department

Copy to All Chief Executive Officers/

Addl. Chief Executive Officers

for information and compliance."

(28). For the foregoing circumstances, we are of the opinion that the appellant is entitled to a direction as made in Neera Joshi's case, Loomb Singh's case (supra). We therefore, quash the order of termination and direct the Government to determine whether the qualifications possessed by the appellant entitles her to be continued in service and in the event of coming to the conclusion that the appellant does not possess the requisite qualification, to give her training as had been done in other cases and on her successful completion of the training, regularise her services. We direct the State Government to determine appellant's qualification with a period of two months from the date of receipt of this judgment and proceed further in accordance with law.

(29). Both the appeals are allowed in the terms as mentioned above. However, there will be no order as to costs.