(1996) 07 SC CK 0110

In the Supreme Court Of India

Case No : Civil Appeals No''s. 9895 of 1996.

State of Madhya Pradesh and another — APPELLANT

Vs

Badrinarayan Acharya, etc. etc. — RESPONDENT

Date of Decision : 22-07-1996

Acts Referred:

Citation : (1996) 6 AD 329 : AIR 1996 SC 2779 : (1996) 2 LLJ 934 : (1996) 5 SCALE 777 : (1996) 10 SCC 271 : (1996) 3 SCR 789 Supp : (1996) 3 SLJ 105

Hon'ble Judges : K. Ramaswamy, J;G. B. Pattanaik, J

Bench : Division Bench

Advocate : Sakesh Kumar and S. K. Agnihotri, for the Appellant; Niraj Sharma, for the Respondent

Final Decision : Allowed

Judgement

1. Delay condoned.

2. Leave granted.

3. I.A. 3 for the Substitution of Respondent is allowed.

4. We have heard counsel on both sides. These appeals by special leave arise from the orders of the M.P. Admn. Tribunal, Indore Bench made in T.A. Nos. 3536/88 & batch on October 23, 1993. The admitted facts are that the respondents, while in service as Assistant Teachers, were deputed at the Government expenses for obtaining higher qualification of graduation etc, and in some case, for B.Ed, degree. They were deputed in the year 1966 but on October 2, 1964 the Government had decided to depute the Candidates at their own cost or at the Government expenses, 'inch of the employees who had gone on training at Government expenses to improve their qualifications, were held ineligible for two advance increments and who had gone at their own expenses, were made eligible for two advance increments. It is not in dispute that the respondents had gone for training at: the Government expenses to improve their qualifications. The Tribunal held that imposition of the cut-off date of October 22, 1964 is bad in

law. We find that the view of the Tribunal is not correct. It is seen that the Government have take decision on the said date to allow the benefit of option to the candidates to go on training for improving their qualifications either at their own cost or at the expenses of the Government. Since on that date, the Government had taken the decision, the given cut-off dale is perfectly valid in law and no fault can be found. It is then contended that since the respondents had gone on training to improve their qualifications, they are eligible for two advance increments.

5. It is seen that the order is explicit as under :

As per Finance Department's Memo No. 16333-CR-1892-I VRI dated 22.10.64, the advance increments are to be allowed only to those government servants who have received training at their own costs and Government servants deputed for training at Government expenses are excluded from the grant of advance increments. These orders have not been given retrospective effect but they come into force from the date of issue of orders. Accordingly anyone who proceeded for training upto 22.10,64 whether at his cost or at Government cost, will be eligible to the concession. Those who proceeded on training on or after 23.10.64 can gel the concession only if the training is at his own cost and not at the cost of the government.

6. A reading thereof would clearly indicate that such of those in service who had gone on training to improve their qualifications at the Government expenses, would not be eligible for two advance increments while those who had gone on training at their own expenses, would be eligible for two advance increments within the stipulated period mentioned in the order. It would be obvious that they had the benefit of pay and expenses. Consequently, they were denied advance increments. Under these circumstances, we hold that the view of the Tribunal is clearly unsustainable in law.

7. The appeals are accordingly allowed. T.As. stand dismissed. No costs.