
(1995) 11 SC CK 0008

In the Supreme Court Of India

Case No : Civil Appeal No's. 11576 of 1995

State of M.P. and Others

APPELLANT

Vs

Shyama Pardhi etc. etc.

RESPONDENT

Date of Decision : 16-11-1995

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (1996) 1 AD 253 : AIR 1996 SC 2219 : (1995) 9 JT 578 : (1995) 7 SCALE 216 : (1996) 7 SCC 118 : (1995) 5 SCR 448 Supp : (1996) 1 UJ 218

Hon'ble Judges : K. Ramaswamy, J;B.L. Hansaria, J

Bench : Division Bench

Advocate : Satish K. Agnihotri, for the Appellant; Shiv Sagar Tiwari, for the Respondent

Final Decision : Disposed Of

Judgement

1. Delay condoned.

2. Leave granted.

3. These appeals by special leave arise from the order of the Administrative Tribunal, Jabalpur M.P. Public Health and Family Welfare Department Non-ministerial (Related to the Directorate Health Services) Class-III Services Recruitment Rules, 1989 (for short 'the Rules'), made under proviso to Article 309 of the Constitution, prescribed qualification for the appointment of Auxiliary Nurse-cum-Midwife (ANM), viz., 10 + 2 with Physics, Chemistry and Biology as qualitative subjects. Admittedly, the respondents had not possessed that qualification. It would be seen that the District Medical Officer, therefore, wrongly selected the respondents and sent them to the training. After their successful completion of the training, he made appointment as A.N.M. in the pay scale of Rs. 950-1350. The respondents were served with notice dated 31st January, 1994 intimating that their selection for training was illegal and their services would be terminated with effect from February 23, 1994. The respondents

challenged the cancellation of their appointment.

4. The Tribunal in the impugned order had held that the respondents having been selected and undergone the training and the competent authority having duly appointed them, cancellation of their appointment without any opportunity is violative of the principles of natural justice and it accordingly set aside the order and directed their reinstatement with consequential benefits. Hence, these appeals by special leave.

5. It is now an admitted fact across the Bar that the respondents had not possessed the pre-requisite qualification, namely, 10 + 2 with Physics, Chemistry and Biology as subjects. The Rules specifically provide that qualification as a condition for appointment to the post of ANM. Since prescribed qualifications had not been satisfied, the initial selection to undergo training is per se illegal. Later appointments thereof are in violation of the statutory rules. The Tribunal, therefore, was not right in directing the reinstatement of respondents. The question of violation of the principles of natural justice does not arise. The ratio of Shrawan Kumar Jha and others Vs. State of Bihar and others, , strongly relied on, has no application to the facts of this case. That was a case where appellants possessed initial qualifications but they did not undergo the training. Since the appointment was set aside on the ground of want of training, this Court interfered with; directed the Government to reinstate them into service and further directed them to send the appellants therein for training.

6. The appeals are allowed and O.As. stand dismissed. No costs.