
(1999) 08 SC CK 0149

In the Supreme Court Of India

Case No : Civil Appeals No. 1499 Of 1998 With Nos. 1500-12, 1514-38 Of 1998

State of Orissa and Others

APPELLANT

Vs

Dipti Paul

RESPONDENT

Date of Decision : 11-08-1999

Acts Referred:

Citation : (2000) 10 SCC 391 : (2000) SCC(L&S) 912

Hon'ble Judges : Sujata V. Manohar, J;A. P. Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The Government of Orissa by Resolution No. 33891 dated 3-8-1989 introduced a scheme under which trained matriculates were to be engaged as Sikhyakarmis in primary and upgraded upper primary schools on a fixed remuneration. The duties of Sikhyakarmis were to promote universal primary education by motivating parents of children below the age of 14 years to get their children enrolled in primary schools and to motivate them to attend the classes regularly. They were also to assist the regular teachers in primary and upper primary schools in the teaching work. Under this Scheme, Sikhyakarmis were appointed on a fixed salary of Rs. 400 per month. The resolution further provided that if they worked for three years, their salary could be fixed at Rs. 600 per month. At the end of four years, if their work was satisfactory, they would be considered for appointment as Primary School Teachers on a priority basis.

2. This Scheme was in operation for approximately seven years, when on account of various difficulties experienced by the Government in the working of the Scheme and the complaints received, the Government decided to abolish Sikhyakarmis. Accordingly, by resolution dated 3-1-1996, the Government decided that the Scheme of engagement of Sikhyakarmis would be abolished forthwith and no further engagement of Sikhyakarmis would be made. Henceforth, vacancies in the rank of Primary School Teachers would be filled through direct recruitment.

3. By a further Resolution No. 7379 of 12-3-1996, it was resolved that those Sikhyakarmis who had not been appointed as Primary School Teachers till then, may be appointed as such in vacancies arising in the sanctioned strength of Primary School Teachers on conditions which were set out in the resolution. By another resolution of the same date, it was stated that consequent upon abolition of the Scheme of engagement of Sikhyakarmis, it had been decided that Sikhyakarmis who were eligible in terms of the decision of the Government, should be absorbed as Primary School Teachers against vacancies available, and further that the vacancies in the post of Primary School Teachers which remained unfilled after such adjustment would be filled up through direct recruitment.

4. As a result, the Scheme for appointment of Sikhyakarmis has been discontinued from 3-1-1996. The Sikhyakarmis, however, moved the Orissa Administrative Tribunal, inter alia, claiming "regularisation" as Primary School Teachers and claiming the same salary as Primary School Teachers, from the date on which they were initially appointed as Sikhyakarmis. The relief of granting the same pay as Primary School Teachers from the date of their initial appointment as Sikhyakarmis has been granted by the Orissa Administrative Tribunal. Hence, the State has come in appeal before us.

5. From the Scheme promulgated under the government resolution of 3-8-1989, it is clear that the duties which were assigned to Sikhyakarmis were different from the duties assigned to the regularly appointed Primary School Teachers. Their main duties were to motivate the parents of children below 14 years to enrol their children in primary schools, and also to motivate regular attendance of such children in the primary schools. They were, in addition, assigned the duty of assisting the regularly appointed Primary School Teachers. Under the Scheme, they were also given a specific fixed remuneration. Clearly there was no intention that they should discharge the same duties as Primary School Teachers; nor was there any intention to appoint them in the regular cadre of Primary School Teachers or to allow them to function as such regular Primary School Teachers. The method of appointment was also different from the method of appointment to the post of a regular Primary School Teacher. Those who were appointed under such a Scheme therefore cannot claim parity with Primary School Teachers appointed under the prescribed procedure to posts in the regular cadre especially when the duties assigned are different.

6. In the case of Delhi Development Horticulture Employees' Union v. Delhi Admn. this Court considered a petition for regularisation made by those employed under a temporary government scheme called Jawahar Rozgar Yojna for providing employment on daily-wage basis for the rural poor for the period when they have no other source of livelihood. The Court said that such persons employed under a specific scheme had no right to claim regularisation of their service because of completion of 240 or more days of work. The Court observed that the object of this Scheme was a limited object given the limited resources at the disposal of the State. Those employed under the Scheme, therefore, could

not ask for more than what the Scheme intended to give them. To get an employment under such a Scheme and to claim on the basis of the said employment a right to regularisation, was to frustrate the Scheme itself.

7. In the present case, the Scheme was for the purpose of promoting the policy of universalisation of primary education. The Scheme provided for a fixed remuneration to those appointed under the Scheme. The Scheme was a self-contained scheme and prescribed specific duties for those engaged under it. It also gave an opportunity to those employed under this Scheme, if they had the requisite qualification and their work was found satisfactory for four years, to be considered for regular appointment as Primary School Teachers. The entire Scheme would be frustrated if the persons appointed under the Scheme were to receive the same remuneration as Primary School Teachers from the inception.

8. In the case of *State of W.B. v. Monirujjaman Mullick* a scheme of the State of West Bengal setting up non-formal education centres run by local bodies in which Instructors were appointed, was considered by this Court. When the Instructors claimed the same pay scale and allowances as admissible to Primary School Teachers on the basis of equal pay for equal work, this Court held that the non-formal education centres cannot be equated with the primary schools which are regularly run by the Education Department of the State Government. Apart from the basic qualitative differences between the two institutions, even the nature of work of the non-formal Instructors and the Primary School Teachers is not identical. The method of appointment, the source of recruitment, the method of teaching, hours of teaching and the mode of payment are entirely different. Therefore, the principle of equal pay for equal work would have no application. The same reasoning directly applied to the present Scheme also.

9. The Tribunal was, therefore, in error in granting to the Sikhyakarmis the same emoluments as Primary School Teachers regularly appointed in the cadre by the State Government.

10. The appeals are, therefore, allowed and the impugned judgment and order of the Tribunal is set aside.