

Adya Roy, and ors. Vs.

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Court : Patna

Decided On : May-06-2010

Judge : Mr. Navin Sinha; Mr. Dinesh Kumar Singh, Jj.

Appeal No. : CIVIL WRIT JURISDICTION CASE NO.13258 OF 1992; CIVIL WRIT JURISDICTION CASE NO.13255 OF 1992

Appellant : Adya Roy, and ors.

Respondent : The State of Bihar, and ors.

Advocate for Def. : Mr. Sanjeev Kumar, Adv.

Advocate for Pet/Ap. : Mr. Tej Bahadur Singh, Adv.

Judgement :

1. The petitioners are aggrieved by the common order dated 20.11.1992 of the District Superintendent of Education, West Champaran at Bettiah. It cancels their appointment on the higher B.Sc. trained scale made on 12.06.1986 and orders recovery of the financial benefits given to them there under.

2. The petitioners are stated to be holding the qualification of B.Sc. trained. They came to be appointed on 10.12.1981 in the Matric trained scale in a Middle School in West Champaran. On 20.2.1981, 2300 posts of Science teachers are stated to have been created for up till class VIII. Consequently, 1150 of these posts were reserved for I. Sc. trained scale and 1150 posts for B.Sc. trained scale.

3. In pursuance of the same, 50 posts of Science teachers were given to the District of West Champaran. This included 25 posts of I.Sc. Trained scale and 25 posts for B.Sc. trained scale.

4. On 12.06.1986, the Establishment Committee considered the cases of the petitioners along with several others and recommended the grant of B.Sc. trained scale to them. One Sri Lal Bahadur Singh came to this Court in C.W.J.C. No. 3064 of 1991 with a grievance that the persons junior to him in length of service have been given the senior pay-scale but his case has not been considered. This Court on 11.07.1991 simply directed the authorities to examine his grievance in accordance with law. This has led to the impugned order dated 20.11.1992 against the petitioners, canceling the B.Sc. trained scale granted to them.

5. Learned counsel for the petitioners submits that even after consideration of his case, Sri Lal Bahadur Singh has been granted no relief. It is next urged that before issuing the impugned order dated 20.11.1992 no notice was given to the petitioners or opportunity to defend the benefit granted given. This is specifically asserted in paragraph no.22 of the writ petition not denied in the counter-affidavit.

6. He next submits that there is no consideration in the impugned order why the deliberations of the Establishment Committee dated 12.06.1986 were not in accordance with law and neither the counter-affidavit even attempts to explain or discuss the alleged illegality in the resolution of the Establishment Committee dated 12.06.1986. Learned Counsel for the State urged that the petitioners were given reservation at time of entry in service and cannot be given any benefit in promotion.

7. To us, the case of the State is neither here nor there. There is no denial on behalf of the State that the case of the petitioners was considered by an Establishment Committee for appointment on the newly created post of B.Sc. trained and approved.

8. The Establishment Committee was not considering their claims for promotion vis-a- vis any policy of reservation. There is no denial on behalf of the State that before issuance of the impugned order dated 20.11.1992 the petitioners have not

been noticed.

9. The order to our satisfaction is non-speaking in nature and even while referring to the deliberation of the Establishment Committee dated 12.06.1986 refuses to discuss the alleged irregularities and illegalities in the decision. The sine quo none for annulment of the appointment of the petitioners was the grievance of the Sri Lal Bahadur Singh that his junior had been given the higher scale causing discrimination. Sri Lal Bahadur Singh apparently appears to have himself got no relief as was urged before us and yet the petitioners are sought to be disturbed.

10. In any event of the matter, this Court had only directed for consideration of the grievance of Sri Singh. No direction of any nature had been given.

11. Administratively, if the authority found any error in their order of appointment dated 12.06.1986 and in pursuance of which a civil right had accrued to them, it could not have been rescinded to their disadvantage without at least a show cause notice to them to satisfy the authorities that there was no illegality in their appointment.

12. We are, therefore, satisfied that considered from any aspect of the matter, the impugned order dated 20.11.1986 is not sustainable. It is accordingly set aside. The petitioners are held entitled to all consequential benefits monetary and promotional in accordance with law.

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