

Dr. Shashi Kant Mishra and Ors.

Vs

State of Bihar and Ors.

Writ Petitions Nos. 422 and 433 of 1986

(Ranganath Misra, M. M. Dutt JJ)

03.12.1987

O R D E R

These are two petitions under Article 32 of the Constitution - the first one is by a set of doctors who claim appointment to the State service but have not been provided with the same; and the second is by a set of doctors who were recruited to service on ad hoc basis asking for regularisation of their services under Rule 19 framed by the State of Bihar. During the pendency of these writ petitions, an order was made on August 7, 1987 (1987 Supp SCC 495) by this Court which gave the following direction : (SCC pp. 496-97, para 2)

Several posts of doctors have been going vacant and people of Bihar appear to have been deprived of medical assistance to a considerable extent. The High Court had given the direction almost three years back to the Commission for completing the recruitment for filling the vacancies. It is unfortunate that within three years the recruitment has not been completed. The Commission should have realised that recruitment of doctors involved priority and steps commensurate to the demands of the situation should have been taken. We cannot conceive of a situation where for recruiting doctors, may be about a thousand in number, a three year period is necessary. Until now we had not given any time-bound direction to the Commission believing that the Commission being a constitutional body would realise its own responsibilities and act. We are obliged to direct the Public Service Commission of Bihar to complete the examination in every manner and communicate to the State Government the names of the successful candidates by November 16, 1987. No application for alteration, extension or modification of this direction would be entertained. On failure to compliance, such steps as are open have got to follow.

It is now reported that pursuant to our order the State Public Service Commission has completed the process and has made its recommendation to the State for making of appointments. Learned counsel for the petitioners says that if we call upon the State to complete the process by issuing orders of appointment to the successful candidates recommended by the Public Service Commission, the relief asked for in Writ Petition No. 422 of 1986 would be taken as adequately given and no further direction would be necessary. Mr. Jai Narayan, counsel for the State does not oppose a direction to that effect. We accordingly dispose of Writ Petition No. 422 of 1986 by calling upon the State of Bihar to complete the process of appointment by issuing regular orders on the basis of the recommendations of the public service commission. This should be done within a total period of eight weeks from today and compliance shall be reported by the Health Secretary of the Bihar Government to the Registry of this Court within two weeks thereafter. So far as the connected writ Petition is Concerned, we do not think at this stage it is necessary to examine that question.

Petitioners in that case had been appointed to service on ad hoc basis and have been in service for quite some time. Now that those doctors have already been in service for more than a year and the petitioners are getting into service under our orders we do not think any useful purpose would be served by opposing regularisation. According do not propose to go into the question in this writ petition. Writ Petition No. 433 of 1986 is disposed of without examining the validity of the rule and by extending the benefit of regularisation to the petitioners of Writ Petition No. 433 of 1986. Liberty to apply. No costs.

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