

Director General and Inspector General of Police, Orissa and Others

Vs

Pramod Kumar Sahoo and Others

Civil Appeals Nos. 267-68 of 1988

(Ranganath Misra, M.M. Dutt JJ)

19.01.1988

ORDER

1. Special leave granted. We have heard learned counsel for the parties as also the intervenors.
2. The State Administrative Tribunal has vacated the recruitment made under the Authority of the Director General of Police on the finding that he had not authority to make the recruitment and the rules which were intended to be brought into force under the proviso to Article 309 of the Constitution were still in a draft stage. In view of the intention evinced by the government that statutory rules would be operative, we are in agreement with the Tribunal that there was no scope for administrative instructions under Article 162 of the Constitution to cover the recruitment. Ad hoc recruits (respondents) and those who were recruited under the authority of the Director General of Police have thus been rightly equated by the Tribunal. We see no justification to take a different view.
3. The State of Orissa is not a party before us but in view of the admitted position that statutory rules were intended to be brought into force, we direct the State the Orissa to frame the rules within two months from today. At any rate, the rules shall become operative from April 1, 1988. Within the months from that date, the recruitment should be made under the rules and the vacancies now existing and which may come to exist should be filled up in accordance with the provisions of the rules. We direct the State of Orissa to comply with this order.
4. Two vacancies exist. It is stated that there are two persons namely - Devadutta Ranasingh s/o Sh. S. G. Ranasingh, Puri (Orissa), Laltendu Roy s/o Sh. Sudershan Roy, who are in the waiting list as a result of the examination held under the authority of the Director General of Police. They are intervenors. They should be given employment within four weeks on ad hoc basis.
5. It also appears that two persons being Anwar Jamil s/o Mawal Box Khan and Smt. Kalpana Mohanty (respondents 11 and 19) had qualified in the written test in the examination held under the authority of the Director General of Police but they were not called for interview. We direct these two persons also to be given employment by creating two more posts, if necessary, and these four appointments which we have directed shall continue till requirement is made under the rules as indicated above.
6. Appropriate relaxation should be granted in regard to the age when regular recruitment examination is held keeping in view the background of the matter.
7. A copy of this order shall be transmitted to the Chief Secretary of the State of Orissa forthwith.

8. The decision of the Tribunal is appropriately modified. The appeals are disposed of accordingly.  
No costs.

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