

Union of India and others

Vs

Tejram Parashramji Bombhate and others

Civil Appeal No.233 of 1991 with Civil Appeal No.480 of 1989

(K. Jagannatha Shetty, Yogeshwar Dayal JJ)

03.05.1991

JUDGEMENT

K. JAGANNATHA SHETTY, J.:-

1. To cater to the educational needs of children of persons employed in the Ordnance Factory at Ambazari the Central Government has sanctioned and is running a Primary School from Classes 1 to V. In the same premises, the employees of the Ordnance Factory, by their own arrangement are also having a Secondary School with Classes VI to X. They have appointed the respondents as teachers in the Secondary School. They are paid honorarium and not full salary. Their honorarium is paid out of fees from the children and other donations received by the school. The respondents, however, approached the Central Administrative Tribunal seeking regularisation of their services and demanding equal pay for equal work. The Tribunal has allowed their claim with certain directions to the appellants including the Union of India. The directions issued by the Tribunal are as follows:

- "(i) The respondents will immediately take up an assessment of the needs of the school to carry on its activities at their present level and the number of additional teachers required for this purpose;
- (ii) After assessing the number of teachers needed, the respondents will proceed to create a sufficient number of posts to be filled up on a regular basis;
- (iii) After completing the above exercise respondents will take steps to fill up the newly created posts in accordance with recruitment rules to be framed for the purpose. The applicants who have worked as teachers in past should be first considered for the posts and only if they are found unsuitable should candidates from sources like the Employment Exchange be considered;
- (iv) Once the procedure outlined above is completed all persons selected should be appointed on a regular basis and on remuneration admissible to the regular teachers of the primary school;
- (v) Similar procedure should also be followed in respect of posts of peon giving Shri Tadas an opportunity of competing for regular appointment;
- (vi) Till the exercise outlined above is completed which we hope will be done before the academic year 1989-90 commences - the present procedure may continue and

such of the applicants as are selected for appointment will be subject to the same conditions of service as before."

2. The Union of India and the officers of the ordnance factory have challenged the validity of these directions in Civil Appeal No. 233/ 1991. The respondents who have not been recruited as per the directions of the Tribunal have preferred Civil Appeal No. 480 / 1989.
3. We have considered the submissions of counsel on both sides in the light of the material on record. At the outset we may point out that there is no evidence that the respondents were appointed as teachers on honorarium by or on behalf of the Central Government. There is also no evidence that the respondents were initially appointed in the Primary School and later they were shifted to the Secondary School. The fact, however, remains that when the respondents moved the Tribunal for reliefs they were only teaching in the Secondary School. It is undisputed that the Central Government has not sanctioned the Secondary School nor created any posts thereto. The Central Government has only sanctioned the Primary School and the posts connected therewith. Those posts are being occupied by regularly recruited teachers.
4. The Tribunal, however, has directed the Central Government immediately to take up an assessment of the needs of the School to carry on its activities at the present level and to create a sufficient number of posts to be filled up on a regular basis. The Tribunal has further directed the Central Government to take steps to fill up the newly treated posts in accordance with the recruitment rules to be framed for the purpose. These directions are indeed amazing. It has compelled the Government to sanction the Secondary School, create adequate number of posts and fill up the posts after framing the recruitment rules for the purpose. There is no law requiring the Central Government to sanction the Secondary School. The Central Government has taken a decision that it will not involve itself in sanctioning or running classes beyond the Primary School level. It is a policy matter involving financial burden. No Court or the Tribunal could compel the Government to change its policy involving expenditure. The Tribunal, therefore, could not have, issued the direction as it did to compel the central Government to assess the needs of the school and create the necessary posts without support of law.
5. Secondly, the respondents are not paid by the Central Government. They are not holding any appointment under the Central Government. There is no relationship of master and servant between the Central Government and the respondents. The respondents are employed in the Secondary School by local arrangement made by the officers of the Ordnance Factory. It is not proved that how the Central Government is accountable to such arrangement made by the local officers.
6. Thirdly, S. 14 of the Administrative Tribunals Act, 1985 confers no jurisdiction, power and authority on the Tribunal to deal with the service matters of the employees like the respondents.
7. In any view of the matter, the respondents cannot claim the pay-scale admissible to the Government school teachers much less regularisation of their services by the Central Government. The directions issued by the Tribunal therefore, cannot be sustained. They are apparently unjustified and without authority of law.
8. In the result we allow the Civil Appeal No. 233/1991, and set aside the order of the Tribunal. The Civil Appeal No. 480/1989 is dismissed. In the circumstances of the cases, however, we make no order as to costs.

Order accordingly.

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