

Raj Bala and another

Vs

Deputy Director of Education and another

Civil Appeal Nos. 2393-94 of 1981 with 6263 of 1983 with Transferred Case No. 152 of 1988

(K. Jagannatha Shetty, Yogeshwar Dayal JJ)

17.09.1991

JUDGMENT

1. By order dated October 13, 1987 this Court disposed of the present appeals in these terms:

"Heard learned counsel for the parties. In the facts of the cases, we consider it unnecessary to go into the legal aspect as we are inclined to agree with the counsel that all the teachers concerned should be given employment irrespective of the fact whether they are recruitees of the year 1975 or 1976. We have also no intention to disturb the judgment of the High Court. We direct the State of U. P. to make appropriate adjustments and give employment to both the groups of teachers. Our direction shall be confined only to the parties to these proceedings. The appeals are disposed of accordingly. No costs."

2. Pursuant to this order, the Department tried to accommodate some teachers in the institution concerned and others in the institutions of the neighbouring districts. One of the teachers who was posted out, approached the Allahabad High Court and obtained stay of posting. The writ petition filed by that teacher has since been transferred to this Court and numbered as T.C. (Civil) No. 152 of 1988.

3. On November 21, 1988 this Court again made an order which reads as follows:

"We have heard counsel for all parties including the State of Uttar Pradesh. We direct the respondent authority to examine the matter afresh keeping the following guidelines in view:

1. An attempt should be made to accommodate all the parties in the same institution, if possible.
2. The length of service of all the teachers involved in these appeals to be fixed. In case accommodating all of them in the same institution is not possible, and the services are transferable, teachers who have rendered the longest period of service out of this group should be transferred. In case transfer is not permissible the senior teachers should be continued and the Junior ones may be posted in other institutions.
3. Even if transfer is to be done, care should be taken to see that the teachers are not posted at places far away from the institution where they are not working. The salaries of teachers who have been absorbed under our order should be disbursed soon. This exercise should be completed by the Deputy Director of Education or any other competent authority as the case may be within six weeks from now. We are adjourning the matter to 10th of January 1989, when Mrs. Shobha Dikshit will

place the latest order made by the Deputy Director in compliance of our today's direction.

Smt. Sarla Chopra was found by the High Court to be qualified. The Deputy Director of Education shall therefore, treat her as qualified teacher and pay her dues.

4. In accordance with the aforesaid directions issued by this Court, the Deputy Director of the region made an order dated January 5, 1989 by which he posted two of the teachers namely- (i) Smt. Mithilesh Kumari Gaur; and (ii) Smt. Surjeet Kaur in the neighbouring districts. The remaining teachers were accommodated in the institution in question at Kankhal. It seems that the said two teachers were aggrieved by the posting given to them. This was perhaps the reason why this Court made An order dated January 25, 1989 as follows:

"The orders dated 13th October 1987 and November 21, 1988 made by this Court shall stand suspended and the appeals and the Transferred case will be listed for hearing on March 28, 1989."

5. This is how the appeals and the Transferred case have come up before us. There is a Contempt Petition moved by the respondents and that is also listed before us for consideration.

6. We have examined the entire matter in the light of the previous orders made by this Court and also the orders made by the Department. We are of the opinion that it would be futile to examine the merits of the appeals at this stage. The only question that remains to be considered is whether all the teachers in the appeals should be posted in the institution at Kankhal and if that is not possible where else they should be accommodated. For the present it is not disputed, that in the institution at Kankhal there are not enough vacancies to accommodate all the teachers. Some have to be posted elsewhere.

7. Since the respondents have succeeded before the High Court, they have preferential right to have them posted at Kankhal. They are satisfied with the order made by the Department on January 5, 1989. But unfortunately, the said order could not be implemented by the department in view of this Court's order dated January 5, 1989. It is now nearly two and a half years since the Department made that order. One does not know whether the same vacancy position continues in the institutions to which two of the teachers were posted outside Kankhal.

8. There are now four vacancies at Kankhal against which four of the teachers could be conveniently posted. The remaining two are to be posted in some other institutions. Out of the four persons, three are the respondents in these appeals. They shall be posted at Kankhal itself. Their positing at Kankhal has been necessitated in view of the judgment of the High Court which has been kept undisturbed by the previous order of this Court. Out of the remaining, Smt. Raj Bala is already at Kankhal. She may also be allowed to continue at Kankhal. There remains two other teachers Smt. Mithilesh Kumari Gaur and Smt. Surjeet Kaur. They may be posted in the neighbouring districts as far as possible.

9. We also direct that in the event of the reassessment of the vacancy position at Kankhal in future if any further post in the category to which Smt, Mithilesh Kumari Gaur or Smt. Surjeet Kaur belong is needed, they should be brought back to Kankhal.

10. This Court by order dated November 21, 1998 has given certain directions in respect of the respondents in these appeals, namely, Smt. Sarla Chopra, Smt. Kamla Lal and Smt. Yadhodra Rani. The directions contained in the said order with regard to these teachers are kept undisturbed.

11. In the result the appeals are disposed of accordingly. The Writ Petition concerned in the transferred case is dismissed. We also dismiss the contempt petition. In the circumstances of the case, we make no order as to costs. Time to comply two months from the date of receipt of this order. Order accordingly.

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