

Birendra Kumar and Others

v.

State of Bihar and Others

(Supreme Court Of India)

HON'BLE JUSTICE G. N. RAY HON'BLE JUSTICE P. B. SAWANT

Civil Appeal No. of 1992 | 30-11-1992

1. Leave granted. Pursuant to the orders of this Court passed on 7-2-1991, 22-11-1991, 11-5-1992 and 19-11-1992, the position which emerges is as follows.

All those untrained teachers who were employed prior to the date when the new rule came into operation, were entitled to be continued in service provided no trained teachers were available and they satisfied the qualifications required for the posts. To examine the qualifications and their eligibility they were to be subjected to a selection process and if found fit were to be appointed to the posts. Nothing has happened since then to change this situation and there is no need to make any alteration in the orders of this Court, in spite of what is stated in the counter-affidavit filed on behalf of the State.

2. We, therefore, direct once again that if there are vacancies and if there are no trained teachers available, the untrained teachers who were employed prior to the new rule coming into operation, would be reinstated in service if after subjecting them to the selection process they are found suitable. If there are no vacancies, they would be empanelled according to their seniority, and would be appointed according to their seniority in the vacancies arising in future. Unless this panel is exhausted, no new appointments of untrained teachers will be made from outside. It is understood that those eligible for being so appointed will be the ones who were appointed before the new rule came into operation.

3. While making the appointments of those who were so in service prior to the date of appointment, the State Government will relax the age-limit, if necessary.

4. We are informed that the appellants involved in the present case were paid salaries till 30-6-1991. We also understand from Mr B. B. Singh, learned advocate appearing for the State that all the vacancies have been filled in till 1-1-1992. If there were

vacancies and yet the appellants were not appointed in the said vacancies such of the appellants who were eligible to be appointed and yet were not appointed in spite of the vacancies, would be entitled to the salaries from 1-7-1992 till their appointment. However, if there were no vacancies and all the appellants or some of them have to be appointed in the new vacancies which may be available hereafter, they will not be entitled to the salaries from 1-7-1992 till the date of their appointment. However, when they are appointed the period of break in service not exceeding one year will be taken into consideration for benefits other than salary.

5. The appeal is disposed of accordingly with no order as to costs.