

State of M. P. and Others

Vs

Shyama Pardhi And Others

Civil Appeals Nos. 11576 of 1995

(K. Ramaswamy, B. L. Hansaria JJ)

16.11.1995

ORDER

1. Delay condoned.

2. Leave granted.

3. These appeals by special leave arise from the order of the Administrative Tribunal, Jabalpur. The M.P. Public Health and Family Welfare Department Non-Ministerial (Related to the Directorate, Health Services) Class III Services Recruitment Rules, 1989 (for short 'the Rules'), made under proviso to Article 309 of the Constitution, prescribed qualification for the appointment of Auxiliary Nurse-cum-Midwife (ANM), viz., 10 + 2 with Physics, Chemistry and Biology as qualitative subjects. Admittedly, the respondents had not possessed that qualification. It would be seen that the District Medical Officer, therefore, wrongly selected the respondents and sent them to the training. After their successful completion of the training, he made appointment as ANM in the pay scale of Rs 950-1350. He respondents were served with notice dated 31-1-1994 intimating that their selection for training was illegal and their services would be terminated with effect with from 23-2-1994. The respondents challenged the cancellation of their appointment.

4. The Tribunal in the impugned order had held that the respondents having been selected and undergone the training and the competent authority having duly appointed them, cancellation of their appointment without any opportunity is violative of the principles of natural justice and it accordingly set aside the order and directed their reinstatement with consequential benefits. Hence, these appeals by special leave.

5. It is now an admitted fact across the Bar that the respondents had not possessed the prerequisite qualification, namely, 10 + 2 with Physics, Chemistry and Biology as subjects. The Rules specifically provide that qualification as a condition for appointment to the post of ANM. Since prescribed qualifications had not been satisfied, the initial selection to undergo training is per se illegal. Later appointments thereof are in violation of the statutory rules. The Tribunal, therefore, was not right in directing the reinstatement of the respondents. The question or violation of the principles of natural justice does not arise. The ratio of *Shrawan Kumar Jha v. State of Bihar* [1991 Supp (1) SCC 330 : 1991 SCC (L&S) 1078 : (1991) 16 ATC 937 : AIR 1991 SC 309], strongly relied on, has no application to the facts of this case. That was a case where the appellants possessed initial qualifications but they did not undergo the training, this Court interfered with, directed the Government to reinstate them into service and further directed them to send the appellants therein for training.

6. The appeals are allowed and OAs stand dismissed. No costs.