

Ram Vijay Kumar and Others

Vs

State of Bihar and Others

SLP (C) No. 23187 of 1996

(S. C. Agarwal, G. T. Nanavati JJ)

05.09.1997

ORDER

1. This special leave petition relates to recruitment of Assistant Teachers in Elementary/Primary Schools in the State of Bihar. The said recruitment was made on the basis of an advertisement issued on 8-10-1991. The petitioners in this special leave petition are persons who possess teaching qualifications obtained from Government/Private Teachers' Training Institutions. They had filed a writ petition in the High Court assailing the process of selection by the Bihar Public Service Commission (hereinafter referred to as "the Commission"). The grievance was that the selection was made on districtwise basis and the persons who had applied from a particular district were treated as applicants and aspirants for appointment to the posts in that particular district only. The said writ petition has been disposed of by the High Court by the impugned judgment dated 26-9-1996. The High Court has held that the eligible candidates have a right of consideration for their appointment in any one or other district cadre of Assistant Teachers and the State could not force a person to confine his application for a particular district cadre at the time of application. But keeping in view the facts and circumstances, the High Court has not set aside the impugned selection and the appointments made on the basis of such selection.

2. We have heard Shri Shanti Bhushan, learned Senior Counsel appearing for the petitioners, Shri Rakesh Dwivedi, learned Senior Counsel appearing for the State of Bihar and Shri Kapil Sibal, learned Senior Counsel appearing for the Commission.

3. It appears that selection was made for nearly 25,000 posts. According to the figures given by the State of Bihar in the affidavit dated 14-8-1997 filed by Shri Deepak Kumar, Deputy Superintendent of Education, Government of Bihar, total number of 19,700 candidates were selected and recommended for appointment by the Commission and out of these 19,272 persons have been appointed as Assistant Teachers in various schools. The number of trained teachers in the cadre of Assistant Teachers thus appointed is 19,272, while the number of untrained teachers is 17,281. It would thus appear that out of the 25,000 posts for which selection was made about 6000 posts remain to be filled. Some of these posts will have to be set apart for candidates belonging to reserved categories.

4. Keeping in view the facts and circumstances of the case, we are not inclined to interfere with the impugned judgment of the High Court but having regard to the fact that the High Court has found merit in the grievance of the petitioners we consider it appropriate in the interests of justice to give the following directions regarding appointment on the posts of Assistant Teachers which have not been filled on the basis of this selection made on the basis of the advertisement dated 8-10-1991 and which fall in the general category :

(i) The Commission shall conduct a special selection for the purpose of appointment on these unfilled posts from amongst applicants who had submitted their applications.

(ii) The selection shall be confined to applicants possessing teachers' training qualifications obtained from Government/Private Teachers' Training Institutions.

(iii) The selection shall be made by holding a preliminary test and a written examination of the candidates who qualify in the preliminary test.

(iv) In case the number of persons found suitable for appointment in such special selection exceeds the number of posts for which recruitment was to be made on the basis of the advertisement dated 8-10-1991, the surplus number of candidates who have been found suitable for appointment would be adjusted against posts to be filled on the basis of subsequent selection.

(v) The special selection which is to be conducted in pursuance of these directions shall be completed by the Commission by 31-12-1997.

5. From the affidavit of Shri Deepak Kumar it appears that although appointment of Assistant Teachers on the basis of the impugned selection was made in August 1994 no steps have been taken so far by the State Government for imparting training to the untrained teachers. All that has been said in the affidavit of Shri Deepak Kumar is that the training period of two years is being reduced to one year and the syllabus for the one-year course is yet to be prepared. This lackadaisical approach in the matter of imparting training to persons who are required to teach students is indefensible. It is, therefore, directed that the State Government shall take immediate steps to finalise the syllabus and that the training courses for training of the untrained teachers should commence from 1-10-1997. It must be ensured that all the untrained teachers who have been appointed as per the aforementioned selection are duly trained within two years' time.

6. The selection for which preliminary examination was held in December 1996, shall be made by the Commission in accordance with the law laid by the High Court in the impugned judgment. The interim order passed by the Court staying the declaration of the result of the said preliminary examination is vacated.

7. The special leave petition is disposed of accordingly. No costs.