

State of Maharashtra and Others

Vs

Vijay Vasanttrao Deshpande

Civil Appeal No. 4017 of 1995

(G. T. Nanavati, S. R. Babu JJ)

27.08.1998

JUDGMENT

NANAVATI, J.

The State of Maharashtra is challenging in this appeal the order passed by the Maharashtra Administrative Tribunal in OA No. 125 of 1993.

2. The respondent was appointed as a Lecturer in Statistics and Demography in S.R.T.C. Medical College, Ambejogai on November 14, 1979. He was appointed initially for a period of four months purely on ad hoc basis and till a regularly selected candidate was available. However, the appointment continued from year to year without any break for eight years. Meanwhile, he also obtained Ph.D. in Statistics. On completion of eight years of service, the respondent made representations to the authorities concerned for regularising his services and to grant him the benefit of higher pay scale under the University Grants Commission Scheme for merit promotion of teachers working under the Post-Partum Programme. As his representations were not accepted, he approached the Tribunal and sought the following two reliefs :

"(A) By issue of an appropriate order or direction Respondents 1 and 2 be directed to regularise the services of the applicant with awarding permanency benefits.

(B) By issue of an appropriate order or direction Respondents 1 and 2 be directed to award pay scale of Rs. 3700-5700 under the University Grants Commission's Scheme for merit promotion of teachers working under the Post-Partum Programme with fixation of pay with retrospective effect, i.e., November 14, 1987."

3. In support of his claim for regularisation, the respondent had relied upon the GO dated September 19, 1975 issued by the State of Maharashtra. The Tribunal held that the said government resolution was not applicable to the respondent as it applied only to those employees who were appointed on temporary basis and were not made permanent because of non-availability of permanent posts. The Tribunal, however, relying upon the Government's letter dated March 5, 1985 held that the respondent was entitled to the benefit of the University Grants Commission's Scheme for merit promotion of teachers working under the Post-Partum Programme from the date he completed eight years of continuous service. With respect to the prayer for regularisation, the Tribunal directed the Government to consider his case. This order's correctness is challenged by the State of Maharashtra, Director of Medical Education and the Dean of C.R.T. Medical College.

4. Learned counsel for the appellants contended that the Tribunal has misconstrued the letter dated

March 5, 1985 issued by the Government of India and thus wrongly given the benefit of the aforesaid Scheme to the respondent. Having gone through the said letter, we are of the opinion that this contention deserves to be accepted. The first paragraph of the said letter reads as follows :

"The Ministry of Health and Family Welfare have been taking steps in the past to bring the status of the teachers and staff working under the Post-Partum Programme on a par with those working in other Health Departments but many complaints have been received from various medical colleges regarding stagnation of the staff leading to frustration of the persons working in the Post-Partum Centres."

5. In the said letter, it is further stated that the benefit was to be extended to those who fulfilled the conditions mentioned in that letter. One such condition was that the incumbent should have completed 8 years of continuous service in the respective cadre as Lecturer/Reader in the Post-Partum Programme. Though the said condition itself did not clarify that Lecturers appointed on ad hoc basis were not to be extended the said benefit but if we read that condition along with the first paragraph, it becomes clear that what was intended by the Government of India was to extend the benefit of the said Scheme to those Lecturers only who were regularly appointed. The purpose for which the said letter was issued was stated in the first paragraph of that letter. The Government wanted to bring the status of teachers and staff working under the Post-Partum Programme on a par with the teachers and staff working in other departments. In other departments, as disclosed by the said resolution dated September 19, 1975, the benefit of regularisation could have been given only to those employees who were appointed regularly or on temporary basis. The said benefit was not extended to those teachers who were appointed on ad hoc basis. If the reading of the letter dated March 5, 1985 by the Tribunal is accepted as correct, the result would be that the teachers appointed under the Post-Partum Programme would get the benefit of the UGC Scheme for promotion even though their appointment was on ad hoc basis whereas the teachers appointed on ad hoc basis in any other department would not have that benefit. That could not have been the intention of the Government of India and, therefore, the letter dated March 5, 1985 cannot be read in that manner. Condition 4 contained in that letter will have to be read to mean that the incumbent should have completed 8 years of continuous regular service after being appointed on the post of Lecturer/Reader. Admittedly, the respondent was not a regularly-appointed person inasmuch as he was appointed on ad hoc basis. His appointment was by way of stop-gap arrangement as it was to last till a regularly-appointed candidate became available. He had appeared twice in the examination subsequent to his appointment but on both the occasions, he had failed. Under the circumstances, only a direction to the authorities to consider the case of the respondent for regularisation could have been granted. The Tribunal committed a grave error in directing the authorities to give him the benefit of the UGC Merit Promotion Scheme.

6. We, therefore, partly allow this appeal and set aside that part of the judgment whereby prayer 'B' has been granted. The State Government shall now consider the case of the respondent for regularisation within a period of three months from today.

7. No order as to costs.