

CASE NO.:
Appeal (civil) 959 of 2008

PETITIONER:
School & Mass Education, Orissa

RESPONDENT:
Pravabati Rout & Ors

DATE OF JUDGMENT: 04/02/2008

BENCH:
ASHOK BHAN & DALVEER BHANDARI

JUDGMENT:
JUDGMENT

O R D E R
CIVIL APPEAL LNO.959 OF 2008
[Arising out of S.L.P.(C)No.5334 of 2006]

Leave granted.

Management/State is in appeal before us.

On 08th October 1993, respondent no.1 herein was appointed by respondent no.2 (Chairman-cum-Collector, Kendrapara Municipality) as Assistant Teacher on ad-hoc basis on a consolidated salary of Rs.500/- per month for a period of 44 days. Her ad-hoc appointment was extended from time to time. However, while extending the ad-hoc appointment, break of one day was given on completion of each 44 days.

On 31st July 1995, respondent nos.2 and 3 regularised services of 8 primary school teachers working in different schools within the Kendrapara Municipal Area.

On 19th August 1995, the appellant issued an order that the appointment to the post of primary school teachers will be made by the respective District Inspectors of Schools through a Selection Committee constituted for the purpose. Pursuant to the said order the services of respondent no.1 were not extended as the Municipality had no authority to do so.

C.A.No.959/08 (contd.)

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Respondent no.1 filed a writ petition before the High Court seeking regularisation of her services and payment of salary and other allowances as were being paid to other similarly situated teachers.

The appellant does not appear to have been made a party before the High Court originally, but, was impleaded as a party.

A Division Bench of the High Court allowed the writ petition and directed that the services of respondent no.1 be regularised with effect from the date from which the services of 8 other similarly situated teachers were regularised. Aggrieved by the said order, the appellant is in appeal before us.

During the course of the proceedings in this Court, counsel for the appellant submitted that the services of respondent no.1 had been dispensed with from 01st November 1995 whereas the case of respondent no.1 was that she was still continuing in service. State Government had constituted a Committee to enquire whether respondent no.1 was still working. Counsel for the appellant was directed to place on record a copy of the said report. The report has been filed by the appellant. As per this report, engagement of respondent no.1 on ad-hoc basis was extended from time to time till November 1995 and no salary was being paid to her thereafter. The said Committee has also found that the Teachers Attendance Register of the teaching staff of the school did not find the name of respondent no.1. The only evidence produced by respondent no.1 was a Teachers Attendance Register being maintained by herself since June 1997.

C.A.No.959/08 (contd.)

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After hearing counsel for the parties and going through the report of the Committee, we are satisfied that services of respondent no.1 were dispensed with in the month of November 1995 and thereafter she has not worked.

Apart from this, the impugned order of the High Court is apparently contrary to the law laid down by this Court in the case of Secretary, State of Karnataka & Ors. v. Umadevi & Ors. (2006) 4 SCC 1. In the said judgment, this Court held that a person who is appointed on temporary, contractual, casual or daily wage basis has no right to seek regularisation as he was not appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution of India. As the judgment in appeal runs counter to the said decision of this Court, we set aside the impugned order of the High Court and dismiss the writ petition filed before it. Consequently, the appeal stands allowed.

It is made clear that in case there are any arrears due to respondent no.1 upto 31st October 1995, the same be disbursed to her within a period of four weeks from today.