

PETITIONER:
STATE OF ORISSA & ORS.

Vs.

RESPONDENT:
SUKANTI DEBI

DATE OF JUDGMENT: 02/12/1996

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Delay condoned.

Leave granted.

This appeal by special leave arises from the order of the Orissa Administrative Tribunal at Cuttack, made on March 2, 1995 in OA N.1499/93. Though the respondent was served on September 30, 1996, he did not appear. Therefore, we adjourned the matter by proceedings dated October 28, 1996 to see whether he appears or is represented through counsel. Even today, he has not appeared.

The only question is; whether the direction issued by the Tribunal to appoint him in future vacancy is valid in law? It is seen that the third respondent came to be appointed in a third post as Hindi Teacher which was not sanctioned post; nor was the need for such an appointment recognised by the management. It is also stated that he was not qualified for the post. We need not go into the question of his qualification. Suffice it would be to state that the Government in their letter dated May 1, 1992 have stated as under:

"I am directed to invite a reference to Govt. In Education Department Letter No.13409, dated 17.3.1992 and to inform you that Hindi being a non-Examinable subject in M.E. Schools, There is no need to allow the existing Hindi teachers in M.E. Schools to continue further. Therefore, It was decided that the Hindi teachers who are ... in M.E. Schools will be adjusted against the third post of teachers in M.E. Schools provided they possessed Matric C.T. Qualification. In case any of them not ... C.T. Qualification he should be given chance to acquire C.T. Qualification as in service candidate by summer vacation he will be allowed untrained scale

of pay till then. In case any one is non-Matric he should be given the chance to acquire an equal C.T. Qualification. In case of former, the qualification would be acquired within three years for issued of order and in case the non-Matriculation qualification should be acquired within period of Five Years.

In view of the above, the Tribunal was not right in giving the direction.

The appeal is accordingly allowed. No costs.