

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 5357 OF 2007

Ajay Prasad .. Appellant(s)  
Versus  
State of Jharkhand & Ors. .. Respondent(s)

O R D E R

Heard learned counsel for the parties.

It appears that the Appellant had joined the service of Birla Institute of Technology High School at Ranchi, Jharkhand as far back as in 1962. This School was taken over by the State Government with effect from 2 nd January, 1975. The Director (Secondary Education) by the order dated 9th August, 1988 allowed the Appellant to draw M.A. Trained pay-scale at the highest. It further appears that during 1997-98 various teachers, numbering 600, were sent for training during the summer vacation, for a total period of 21 days. Unfortunately, for the Appellant, at that time he was placed at serial No.1381 in a Seniority List drawn up for this purpose by the Respondents. He,

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therefore, did not fall within the first 600 candidates

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Usha Rani Bhardwaj  
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entitling him for undergoing Summer Vacation Training

Reason:

mentioned above. He retired from service on 31 st January, 2000, without being invited or directed to attend the

Training.

Thereafter, in terms of the letter dated 8 th May, 2000, addressed by the Regional Deputy Education Director,

Ranchi, to the Appellant, his seniority was corrected from 1381 to 310 B. This communication led to the Appellant's claim for being placed for in the Super Selection Grade with all consequential benefits in the pay scale of 2200-4000. Briefly stated, the submission of learned counsel for the Appellant is that had the Respondents correctly calculated seniority of the Appellant before his retirement or at any time after 1997-98 when the Summer Vacation Training Scheme had been started, he would have been eligible for the Super Selection Grade. It is his submission that at no stage did the Appellant decline, neglect or refuse to undertake the Training. In fact the fault lies at the door of the Respondents inasmuch as they had wrongly placed the Appellant at seniority 1381 instead of 310 B.

In the impugned order, the learned Single Judge has concluded that it was a 'fait accompli' by which the Appellant failed to be granted the Super Selection Grade. We have perused the impugned order of the Division Bench which substantially reproduces the order of the learned  
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Single Judge, and then concluded merely by saying that it found no error in the said judgment.

In our view the Appellant could not attend the Summer Vacation Training Programm for reasons entirely beyond his control and instead attributable to the incorrect calculations of his seniority by the Respondents. The Respondents can obviously not take advantage of their own error in declining to the Appellant the advantage and benefits that would have accrued to him in the Super Selection Grade, being Rs.2200-4000/- which has been revised to Pay-Scale of Rs.7,500-12,500/-.

The question whether the Appellant falls within 20% of the total posts in the Senior Scale has neither been raised by the Respondents nor addressed in any of the proceedings. Our view, therefore, shall not be conclusively relevant in those cases where the Respondent Government has taken the stand that the Teacher concerned in those proceedings did not fall within 20% of the total posts in the Senior Scale. This question, is therefore, left open. It is for these reasons that we set aside the impugned judgment and direct that the Appellant shall be entitled to receive within thirty days all the benefits of the Super Selection Grade in accordance with para 3 of the letter dated 25th April, 1994 (Annexure R-2), issued on behalf of the Government of Bihar.

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The Writ Petition was well founded and the High Court fell into error in not granting relief. The learned counsel for the Respondents submits that time may be increased since the elections in the State have been called. In view thereof, we direct that the computation as well as the payment be made by the Respondents to the Appellant within ninety days from today.

The Civil Appeal stands Allowed. There will be no order as to costs.

.....J.  
[VIKRAMAJIT SEN ]

.....J.  
[PRAFULLA C. PANT]

NEW DELHI,  
NOVEMBER 05, 2014.

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ITEM NO.103

COURT NO.12

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

AJAY PRASAD

Appellant(s)

VERSUS

STATE OF JHARKHAND & ORS.  
(with office report)

Respondent(s)

Date : 05/11/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAMAJIT SEN  
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s)            Mr. Ranjan Mukherjee, Adv.  
   Mr. D. Banerjee, Adv.  
   Mr. Abhijit Sengupta, Adv.

For Respondent(s)         Mr. Jayesh Gaurav, Adv.  
   Mr. Krishnanand Pandeya, Av.

UPON hearing the counsel the Court made the following  
O R D E R

The civil appeal is allowed with no order as to costs in  
terms of the signed order.

(USHA BHARDWAJ)  
AR-CUM-PS

(SAROJ SAINI)  
(COURT MASTER)

Signed order is placed on the file.