

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).5 3 3 4 / 2 0 0 6

(From the judgement and order dated 2 8 / 0 1 / 2 0 0 5 in OJC No.1 5 4 2 / 1 9 9 6
of The HIGH COURT OF ORI S S A AT CUTTAC K)

SCHOOL & MAS S EDUCA T I O N , ORI S S A Petitioner(s)
VE R S U S

P R A V A B A T I R O U T & O R S. Respondent(s)

[With appln(s) for c/delay in filing SL P , with prayer for interim
relief and office report]

Date: 0 4 / 0 2 / 2 0 0 8 This Petition was called on for hearing today.

CORA M :

HON' B L E MR. JUS T I C E ASHO K BHA N
HON' B L E MR. JUS T I C E DA L V E E R BHA N D A R I

For Petitioner(s) Mr. Shibashish Misra, Adv.

For Respondent No.1 Ch. Anil Ku m a r , Adv. for
Ms. T. Anami k a , Adv.

Nos.2 & 3 Mr. R.S. Roy, Adv.
Mr. Anukul Chandra Pr adh a n, Adv. for
Mr. Pr a n a b Ku m a r Mullick, Adv.

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

Delay condoned.
Leave granted.
The appeal is allowed in terms of the signed order.
(Subhash Chander) (Vinod Kulvi)
Court Master Court Master

[Signed order is placed on the file]
I N T H E S U P R E M E C O U R T O F I N D I A

C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L L N O . 9 5 9 O F 2 0 0 8
[Arising out of S.L. P .(C)No.5 3 3 4 of 2 0 0 6]

School & Mass Education, Oriss aAppellant
Versus
Pr av ab ati Rout & Ors.Respondents

O R D E R

Leave granted.

Management/ S ta te is in appeal before us.

On 08th

October 1993, respondent no.1 herein was appointed by

respondent no.2 (Chairman-cum-Collector, Kendrapada 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

Kendrapada 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 had been

submitted

that

the services

of respondent

no.1

dispensed with from 01st

st

November 1995 whereas the case of respondent

ent

no.1 was that she was still continuing in service.

State Governmen

t 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 1 9 9 5 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 199 7.

C.A.No. 9 5 9 / 0 8 (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 1 9 9 5 and thereafter she has not worked.

Court is Apart from this, the impugned order of the High

apparently contrary to the law laid down by this Court in the case of Secretary, State of K a r n a t a k a & Ors. v. Umadevi & Ors. (20 0 6) 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 regularis ation as he was not appointed in terms of the relevant rules or in adherence of Articles 1 4 and 1 6 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 arrear s due to

respondent no.1 upto 3 1 st

October 1 9 9 5 , the same be disbursed to

her

within a period of four weeks from today.

.....J .
[ASHO K BHA N]

.J .

I]
New Delhi.
Febru a ry 0 4, 2 0 0 8 .

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[DALV E E R BHA N D A R