

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).1115 OF 2012

KAMLAWATI YADAV & ORS.

Appellant(s)

VERSUS

SATISH CHANDRA SRIVASTAVA & ORS.

Respondent(s)

O R D E R

The appellants were appointed as Assistant Teachers on ad-hoc basis in Smt. Gunaraji Devi Balika Uchhatar Madhyamik Vidyalaya, Mahubari, Deora on 27.12.1988. The Manager of the school made a representation to the concerned authority that their appointments should be approved and salaries be paid to the appellants from the dates of their appointment. The authority did not approve the appointments of the appellants and directed the Management to terminate their services. Pursuant thereto, the Management of the School terminated the services of the appellants. Aggrieved thereby, the appellants filed a Writ Petition challenging the orders of termination of their services which was allowed by a judgment dated 13.01.1998 by the learned Single Judge of the Allahabad High Court. The termination of services of the appellants and the stoppage of their salaries were found to be arbitrary. The

High Court held that the appellants shall be deemed to be in service on ad-hoc basis and that they were entitled to payment of salaries. There was a further direction that they shall be continued to be paid the salaries in accordance with law. There is no dispute that the said judgment has become final.

Complaining of the non-implementation of the directions issued by the High Court in the Writ Petition, a Civil Miscellaneous Contempt Petition was filed by the appellants which was dismissed.

Mr. Bharat Sangal, learned senior counsel for the appellants submitted that the High Court in exercise of its contempt jurisdiction could not have entertained into the merits of the matter. According to him, the High Court could not have gone beyond the order passed in the Writ Petition. The learned senior counsel further submitted that there was a clear declaration that the appellants were entitled for the payment of salaries till they were replaced by regular appointees. The learned senior counsel further stated that the appellants have been working since 1991 without salary.

Vide order dated 02.04.2019, we directed the Joint Director of Education VII (Secondary) Region, Gorakhpur, Uttar Pradesh to conduct an enquiry into the manner of appointment of the appellants as Assistant Teachers and the claim pertaining to their salary. There was a further direction to the Regional Director to enquire

about the fact of the appellants continuing to work without salary since 1988.

A report is filed by the Joint Director of Education VII (Secondary) Region, Gorakhpur, Uttar Pradesh in which it is stated that the appointment of the appellants in the School was without following due procedure as contemplated by the Intermediate Education Act, 1921. The Joint Director of Education stated that no salary can be paid to the appellants as the appointment of appellants as Assistant Teachers were not approved by the competent authority. That apart, the Joint Director stated that there was a ban imposed upon the selection of appellants as Assistant Teachers by the Government vide its order dated 11.08.1989. The Joint Director summoned the school records to verify the continuance of the appellants in the school. The Attendance Register was produced by the Management of the School which showed that the appellants were discharging their duties as teachers since the dates of their appointment.

While finding fault with the termination of services of the appellant, the High Court directed that the appellants should be continued in service on ad-hoc basis till regular appointments were made. The appellants were, no doubt, found to be entitled for payment of salary for the services rendered by them. We find no direction given to the government to pay salaries to the appellants. Admittedly, the appointments were made on ad-hoc basis

which were not approved by the Government. Even the direction given by the High Court is to continue appellants on ad-hoc basis.

Though, this Appeal is against the order passed in a contempt case, taking note of the fact that the appellants have been continuing as teachers since 1991, we wanted to find out whether any direction can be given by us to the Government regarding payment of salaries to the appellants. We are afraid that we cannot give such a direction in view of aforementioned facts. As the appellants have been serving the Institution since 1991, the Management of the Institute is directed to pay them their salaries.

The appeal is accordingly disposed of. Pending application(s), if any, stand disposed of.

.....J  
(L. NAGESWARA RAO)

.....J  
(HEMANT GUPTA)

NEW DELHI;  
18th July, 2019

ITEM NO.103

COURT NO.13

SECTION III-A

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

Civil Appeal No(s).1115/2012

KAMLAWATI YADAV &amp; ORS.

Appellant(s)

VERSUS

SATISH CHANDRA SRIVASTAVA &amp; ORS.

Respondent(s)

Date : 18-07-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Appellant(s) Mr. Bharat Sangal, Sr. Adv.  
Mr. Nagarkatti Kartik Uday, AOR  
Ms. Vidushi Garg, Adv.  
Ms. Laimon Rani Boro, Adv.  
Ms. Babta Kushwaha, Adv.

For Respondent(s) Mr. Harish Pandey, AOR  
Mr. Anuroop Chakravarti, Adv.  
  
Ms. Manjula Gupta, AOR

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

The appeal is disposed of in terms of the signed order. Pending application(s), if any, stand disposed of.

(B.Parvathi)  
Court Master(Sunil Kumar Rajvanshi)  
Court Master

(Signed order is placed on the file)