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C.A.No. 5779 OF 1999
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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5779 OF 1999@@
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Shri Ganesh Chandra Bhowal .. Appellant

Versus

The State of West Bengal & Ors. .. Respondents

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The appellant before us was appointed as an Assistant Teacher on 1.3.1983 by the Managing Committee of Laupala Kalpatary High School.

An advertisement was published on 18.8.1985 in the local newspaper calling for applications from such candidates who possess the qualifications in Bengali, English, Mathematics and Physical Science. The appellant before us made an application pursuant to that advertisement.

The appellant appeared before the Selection Committee and he was selected as an Assistant Teacher in Physical science in the school of respondent No..4 and he has been continuing in the said employment till now. As the appointment of the appellant having not been approved by respondent No. 3 - District Inspector of Schools, a writ petition was filed before the High Court. The writ petition having been disposed of by the High Court giving certain direction, an appeal was preferred against that order.

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In the appeal, the Division Bench noticed that the appellant had been appointed after an interview on 20.9.1985 but the appointment of the appellant is not in accordance with the relevant Rules pertaining to Management of Recognised Non-Government Institutions (Aided and Unaided) Rules, 1969.

The Division Bench being of the view that the appointment was not in terms of the said Rules, no relief could be granted to the appellant and allowed the appeal and dismissed the writ application filed before it, hence this appeal.

Fact remains that the appellant has been working in the institution of respondent No..4 from 1983 after being selected to the said post without a break till now. Even if the order made by the High Court is upheld, all that has to be done is to make fresh recruitment as the said appointment of the appellant is not approved by respondent No. 3. When the appellant has gained good deal of experience and he having worked in he said institution for nearly 16 years continuously, we do not think it would be proper to upset that position now.

In the special features of the case, we think it

appropriate to direct respondent No. 3 - District Inspector of Schools to approve the appointment made by

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respondent no.4. The order made by the High Court is set aside and the appeal is allowed in the terms set forth above. In the circumstances of the case, there will be no order as to costs.

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[S. RAJENDRA BABU]@@
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[RUMA PAL]@@
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New Delhi,@@
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December 4, 2001.

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ITEM NO.108 COURT NO.6 SECTION-XVI

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

CIVIL APPEAL NO.5779 OF 1999

Ganesh Chandra Showal .. Appellant (s)

Vs.

State of West Bengal & Ors. .. Respondent(s)
(With office report)

DATE :4.12.2001 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MRS.JUSTICE RUMA PAL

For Appellant (s) : Mr. N.R. Choudhury, Adv.
Mr. Somnath Mukherjee, Adv.
Mr. J.P. Pandey, Adv.

For Respondent (s) : Mr. Tara Chandra Sharma, Adv.
Mr. Ajay Sharma, Adv.

UPON hearing counsel the Court made the following
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The appeal is allowed in terms of the signed order.
There will be no order as to costs.

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(Meenu Sethi)
Court Master

(Om Prakash)
Court Master

Signed order is placed on the file