

RATTAN LAL & ORS. ETC.ETC.

v.

STATE OF HARYANA & ORS.

AUGUST 16, 1985

[E.S. VENKATARAMIAH AND R.B. MISRA, JJ.]

Constitution of India 1950, Articles 14 and 16 - State Government - Appointment of 'ad hoc' teachers in regular vacancies - Validity and legality of.

On the question whether it is open to the State Government to appoint teachers on an ad-hoc basis at the commencement of an academic year and terminate their services before the commencement of the next summer vacation, or earlier, to appoint them again on an ad-hoc basis at the commencement of next academic year and to terminate their services before the commencement of the succeeding summer vacation or earlier and to continue to do so year after year.

HELD: 1. The policy of "ad-hocism" followed by the State Government in the appointment of teachers for quite a long period has led to the breach of Articles 14 and 16 of the Constitution. Such a situation cannot be permitted to last any longer. The State Government is expected to function as a model employer. [571 E]

In the instant case the State Government is directed to take immediate steps to fill up in accordance with the relevant rules the vacancies in which those who are appointed on an ad-hoc basis are now working and to allow all those who are now holding these posts on an ad-hoc basis to remain in those posts till the vacancies are duly filled up. These ad-hoc teachers shall be paid salary and allowances for the period of summer vacation as long as they held office. Those who are entitled to maternity or medical leave, shall also be granted such leave in accordance with the rules. [571 F, 572 A-B]

2. The State Government has a duty to appoint teachers in existing vacancies in accordance with the rules. The State Government has failed to discharge that duty. A substantial number of ad-hoc appointments are made in the existing vacancies which have remained unfilled for three to four years. In some cases the appointments are made for a period of six months only and they are renewed after a break of a few days. [571 A-B]

The number of teachers in the State who are appointed on such ad-hoc basis is very large indeed. If the teachers had been appointed regularly, they would have been entitled to the benefits of summer vacation along with the salary and allowances payable in respect of that period and to all other privileges such as casual leave medical leave, maternity leave etc. available to all the Government servants. These benefits are denied to these ad-hoc teachers unreasonably on account of this pernicious system of appointment adopted by the State Government. [571 B-C]

3. These teachers who constitute the bulk of the educated unemployed are compelled to accept these jobs on an ad-hoc basis with miserable conditions of service. The Government appears to be exploiting this situation. This is not a sound personnel policy. It is bound to have serious repercussions on the educational institutions and the children studying there. [571 D]

ORIGINAL JURISDICTION : Writ Petitions Nos. 4600,4600A of 1985 etc.

(Under Article 32 of the Constitution of India.)

Rishi Kumar, S.M. Ashri, Naunit Lal, Kailash Vasdev, Mrs. Vinod Arya, R.C. Pathak, Vishnu Mathur, Mahabir Singh, Pankaj Kalra, Serva Mitter, R.P. Singh, K.C. Dua, N.D. Garg, S. Srinivasan, Rathin Dass, K.K. Gupta, S.K. Bagga, R. Ramachandran S.K. Bisaria, Laxmi Arvind, R.P. Gupta, R. Bana, Ranbir Singh Yadav, H.M. Singh, Mrs. S.C. Jindal, R.K. Agnihotri, B.S. Gupta, P.C. Kapur, Kripal Singh and Amlan Ghosh for the Petitioners.

V.C. Mahajan, I.S. Goel, G.V. Subba Rao and R.N. Poddar for the Respondents.

The Judgment of the Court was delivered by

VENKATARAMIAH, J. In all these petitions the common question which arises for decision is whether it is open to the State Government to appoint teachers on an ad-hoc basis at the commencement of an academic year and terminate their services before the commencement of the next summer vacation or earlier to appoint them again on an ad-hoc basis at the commencement of next academic year and to terminate their services before the commencement of the succeeding summer vacation or earlier and to continue to do so year after year. A substantial number of such ad-hoc appointments are made in the existing vacancies which have

remained unfilled for three to four years. It is the duty of the State Government to take steps to appoint teachers in those vacancies in accordance with the rules as early as possible. The State Government of Haryana has failed to discharge that duty in these cases. It has been appointing teachers for quite some time on an ad-hoc basis for short periods as stated above without any justifiable reason. In some cases the appointments are made for a period of six months only and they are renewed after a break of a few days. The number of teachers in the State of Haryana who are thus appointed on such ad-hoc basis is very large indeed. If the teachers had been appointed regularly they would have been entitled to the benefits of summer vacation along with the salary and allowance payable in respect of that period and to all other privileges such as casual leave, medical leave, maternity leave etc. available to all the Government servants. These benefits are denied to these ad-hoc teachers unreasonably on account of this pernicious system of appointment adopted by the State Government. These ad-hoc teachers are unnecessarily subjected to an arbitrary 'hiring and firing' policy. These teachers who constitute the bulk of the educated unemployed are compelled to accept these jobs on an ad-hoc basis with miserable conditions of service. The government appears to be exploiting this situation. This is not a sound personnel policy. It is bound to have serious repercussions on the educational institutions and the children studying there. The policy of 'ad-hocism' followed by the State Government for a long period has led to the breach of Article 14 and Article 16 of the Constitution. Such a situation cannot be permitted to last any longer. It is needless to say that the State Government is expected to function as a model employer.

We, therefore, direct the State Government to take immediate steps to fill up in accordance with the relevant rules the vacancies in which those who are appointed on an ad-hoc basis are now working and to allow all those who are now holding these posts on ad-hoc basis to remain in those posts till the vacancies are duly filled up. The teachers who are now working on such ad-hoc basis if they have the prescribed qualification may also apply for being appointed regularly in those posts. The State Government may also consider sympathetically the question of relaxing the qualification of maximum age prescribed for appointment to those posts in the case of those who have been victims of this system of 'ad-hoc' appointments. If any of the petitioners in these petitions has under any existing rule acquired the right to be treated as a regularly appointed teacher, his case shall be considered by the State Government and an appropriate order may be passed in his case.

We strongly deprecate the policy of the State Government under which 'ad-hoc' teachers are denied the salary and allowances for the period of the summer vacation by resorting to the fictional breaks of the type referred to above. These 'ad-hoc' teachers shall be paid salary and allowances for the period of summer vacation as long as they hold the office under this order. Those who are entitled to maternity or medical leave, shall also be granted such leave in accordance with the rules.

If the petitioners have any other grievances, they may approach the High Court of Punjab and Haryana.

These petitions are accordingly disposed of.

A.P.J.

Petition dismissed.