A

SMT. SANTOSH YADAV

v.

STATE OF HARYANA AND ORS.

MAY 2, 1996

B

[M.M. PUNCHHI AND K.T. THOMAS, JJ.]

Service Law:

Education Department, Government of Haryana—Teacher—Qualifications—Candidate possessing teacher's training Certificate from Secondary Education Board, U.P.—Appointed on six monthly basis in 1980—Regularised in 1984—Order relieving her from service passed in 1990 stating that appointment of teacher with diploma/certificate from other State was irregular—Held, on account of relaxation given by letter dated 27.7.1981 and the employee having earned regularity in service it was wholly wrong and arbitrary on the part of the Government to have deprived her of her job—She would be entitled to back wages and seniority.

C

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7748 of 1996.

E

From the Judgment and Order dated 11.4.90 of the Punjab & Haryana High Court in C.W.P. No. 5067 of 1990.

Ranbir Yadav for P. Gaur for the Appellants.

Ms. Nisha Bagchi for Ms. Indu Malhotra for the Respondents.

F

The following Order of the Court was delivered :

Leave granted.

The High Court dismissed the writ petition of the appellant in limine.

G

The appellant had put to challenge order dated 27.3.1990 (Annexure-H) whereby she was conveyed by the School authorities under whom she was working as a Hindi Teachress, that since she had secured her Teacher's Training from the Secondary Education Board, U.P., Bareilly, which was not recognized by the Haryana Government, she had to be relieved from her duties thenceforth with immediate effect. By one stroke of pen, her

H

long durated service spanning from 21.10.1980 onwards, which began on six monthly basis, (ignoring small gaps here and there) till the year 1990 was wiped out; whereas undeniably other Teachers similarly situated on six months' basis, had been able to mature as permanent teachers entitled to continue in service. The lone disquieting factor was that the appellant had a diploma which did not have the approval of the Haryana Government and yet in laxity teachers had been appointed, in order to draw work out of them, to meet the State's educational needs.

It was for the first time on 7.7.1981 (copy of instruction placed on file) that the Directorate of Education, Haryana woke up from its slumber informing all concerned that it had come to the notice of the Department that persons who had obtained their teacher's training diploma/certificate from other States were being recruited or appointed and it need be notified that the method was irregular. It was therefore, desired that in future only those persons shall be recruited who have obtained their teachers' training diploma/certificate from Haryana Education Department. All concerned were further required to strictly adhere to these instructions and also to bring all these to the notice of all the appointing authorities under the jurisdiction of the Government as well as non-government (but recognised) institutions for strict compliance.

It is on the basis of the aforesaid letter dated 7.7.1981 that services of the appellant were terminated on 27.7.1990.

It is not denied that the appellant was taken in service on the basis of the diploma/certificate she possessed, having obtained it from the Secondary Education Board, U.P., Bareilly and that her six months' terms were kept renewed from time to time, ignoring small gaps in between, as was the pattern. Therefore we fail to see that when she was acceptable in 1980 and her terms were kept renewed from time to time uptil 22.5.1982, and onwards, whereafter she was confirmed in the year 1984, how could her service be terminated in the year 1990, when she had attained regularity in service. It is significant to note that the letter dated 7.7.1981. was itself watered down on 22.7.1981 (Annexure A) clarifying that the ban imposed on recruitment of persons who had obtained their diplomas/certificates from non-recognised institutions, would not apply to those who were working as teachers on stop-gap/*adhoc*/six months' basis before the summer vacation of 1981. Concededly, the appellant occupied that position as

A she was working on six monthly basis immediately before the summer vacation of 1991. Thus, on account of such relaxation being available for her and she having earned regularity in her service, it was wholly wrong and arbitrary on the part of the Education Department and the School to have deprived her of her job. Thus, the impugned order dated 27.3.1990 B (Annexure H) relieving the appellant from her duties as Hindi Teachers with immediate effect, is quashed, putting her back to position with back wages and regularity of service, including other service benefits such as seniority, promotion, increments etc. as would have normally been due to her.

C The appeal thus stands allowed in these terms.

R.P. Appeal allowed.