

Shrawan Kumar Jha And Others vs State Of Bihar And Others on 13 November, 1990

Equivalent citations: AIR1991SC309, 1991LABLC1317, 1991SUPP(1)SCC330, AIR 1991 SUPREME COURT 309, 1991 LAB. I. C. 1317, 1991 (1) SCC(SUPP) 330, 1991 SCC (SUPP) 1 330, 1991 SCC (L&S) 1078, (1992) 6 SERVLR 718, (1991) 1 PAT LJR 68, (1993) 3 SCT 747, (1991) 16 ATC 937

Bench: Kuldeep Singh, K. Ramaswamy

JUDGMENT

1. Special leave granted.

2. The appellants, who are 175 in number, were appointed as Assistant Teachers by the District Superintendent of Education, Dhanbad, by an order dated May 28, 1988. Before joining, they were supposed to get their certificates and other qualifications verified from the authorities. They were to join the specified schools by July 4, 1988. The appellants assert that they had joined their respective schools but this fact is denied by the State.

3. By an order dated November 2, 1988, the Deputy Development Commissioner cancelled the appointments of the appellants. Mr. Ashok H. Desai, learned Solicitor General appearing for the respondents has contended that the appointments have been cancelled because the District Superintendent of Education had no authority to make the appointments, it was a device of by-passing the reservations and that the conditions which are part of the appointment order were not complied with. Mr. U. R. Lalit and Mr. A. K. Ganguli, learned Senior Advocates, appearing for the appellants have controverted these allegations and have dated that all these teachers were validly appointed and they had joined their respective schools. It is not necessary to go into all these questions. In the facts and circumstances of this case, we are of the view that the appellants should have been given an opportunity of hearing before cancelling their appointments. Admittedly, no such opportunity was afforded to them. It is well settled that no order to the detriment of the appellants could be passed without complying with the rules of natural justice. We set aside the impugned order of cancellation dated November 3, 1988 on this short ground. As suggested by the learned Solicitor General, we direct that the secretary (Education), Government of Bihar, or to other person nominated by him should give an opportunity of hearing to the appellants and thereafter give a finding as to whether the appellants were validly appointed as Assistant Teachers. He shall also determine as to whether any of the teachers joined their respective schools and for how much duration. In case some of them joined their schools and worked, they shall be entitled to their salary for such period.

4. The appeals are dismissed accordingly with no order as to costs.

Contempt Petition No. 92/90 :

5. In view of our order, the contempt petition has become infructuous and is accordingly dismissed.