

LOKSHIKSHAN PRASARAK MANDAL AND ANR. A  
v.  
RAJENDRA KUMAR AJABRAO MAHALLE AND ORS.

MAY 5, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.] B

*Constitution of India, 1950 :*

*Article 226—Writ petition—Stay of impugned order—Education Department of State of Maharashtra—Appointment given for one academic session specifically mentioning in the letter of appointment that at the end of the session, services would stand terminated without notice—In following year no appointments made—Appellant approaching Tribunal for continuation of service—Tribunal held termination illegal—Writ petition by State—High Court vacated the order of stay—Held, the finding recorded by the Tribunal is clearly unwarranted—The case was clearly for the stay of order of the Tribunal pending disposal of writ petition—Order of High Court set aside—Writ petition to be disposed of expeditiously—Service Law—Appointment for fixed period.* C D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3619 of 1997.

From the Judgment and Order dated 19.2.97 of the Bombay High Court in W.P. No. 3520 of 1995. E

A.K. Sanghi for the Appellants.

V.A. Mohta, Pramit Saxena and S.V. Deshpande for the Respondents. F

The following Order of the Court was delivered :

Leave granted. We have heard counsel on both sides.

This appeal by special leave arises from the interim order passed by the High Court of Bombay, Nagpur Bench, made on February 19, 1997 in Writ Petition No. 3520/95. G

The respondent was appointed on July 9, 1992 for a period of one year. The appointment order read as under : H

A "Your appointment is purely temporary for a period of one year from 9.7.92 to end of Session, in the leave/deputation/vacancy. After expiry of the above period your services shall stand terminated without any notice."

B Subsequently, no appointment was given to the respondent as indicated in the order of the Division Deputy Director of Education (Genl.), dated May 19, 1994 sent on May 21, 1995 which reads as under :

C "That due to refusal of sanction and provisions from the State Government for the year 1993-94, no sanction was granted for any class on grant-in-aid basis. Information to all Heads of Schools should be sent through Deputy Director of Education, Education Officer (Secondary) and Education Inspectors, Bombay."

D Thus, it could be seen that for the year 1993-94, no appointment came to be made. The respondent filed an appeal in the Tribunal for directions. The Tribunal held that he had been appointed against a permanent vacancy and the Head Master had no authority to pass an order of termination. In the face of the appointment order, such finding recorded by the Tribunal is clearly unwarranted. When a writ petition was filed seeking suspension of the order, the High Court vacated the order of stay made in the impugned order. In the aforestated facts, the case was clearly  
E for the stay of Tribunal order pending disposal of the writ petition.

The appeal is accordingly allowed. The order of the High Court stands set aside. The High Court is requested to dispose of the writ petition as expeditiously as possible. No costs.

F R.P.

Appeal allowed.