

(1985) 04 PAT CK 0028

Patna High Court

Case No: C.W.J.C. No. 2616 of 1980

Anant Kishore @ Anant Kishore
Sharma and Others

APPELLANT

Vs

The District Education Officer
and Others

RESPONDENT

Date of Decision: April 17, 1985

Acts Referred:

- Constitution of India, 1950 - Article 16, 226, 227

Citation: (1985) 33 BLJR 614 : (1986) PLJR 50

Hon'ble Judges: M.P. Verma, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

M.P. Varma, J.

The petitioners are Assistant Teachers in Primary school at Nawadah. The management of the school was taken over by the State Government in 1971 and the petitioners as such are Government employees from the date of the taking over of the school. Some time in the year 1976 a committee was constituted, which held its meeting on 19.3.1980 to consider the grant of selection grade to nearly 234 teachers from various dates according to third seniority in service in between the period from 1.4.1969 and 1.4.1979. The petitioners were shown in the list between SI. Nos. 182 to 234 and were allowed the selection grade by the committee, the decision regarding which was taken in the meeting as aforesaid. Subsequently, the same was stayed by an order passed by the District Superintendent of Education, Nawadah on 20.3.1980 (vide annexure"4"), which is under challenge in this application, filed under Articles 226 and 227 of the Constitution of India.

2. It has been contended that there is no provision for any reservation for the grant of selection" grade, as it does not, in any way add to the strength of the grade of

service nor grant of selection grade be deemed to be any appointment or even promotion to the post, It is just grant of higher scale of pay merely on the basis of seniority.

3. Be that as it may, Mr. K. N. Keshav appearing for the petitioners has pointed out that the case of these petitioners is fully covered by a Full Bench decision of this Court in the case of Sheodhar Singh and Ors. v. The State of Bihar Vide C.W.J.C. No. 626 of 1979. learned Counsel for the respondents Kamla Pati Singh has also accepted the position that the controversy raised has been finally settled in the said decision.

4. It cannot be denied that the grant of selection grade in the existing cadre of any service In no way amounts to any increase in the number of post in the service, nor it can be deemed to be any appointment in the scale of selection grade and in that view of the matter, any reservation in the selection grade post would be ultra vires to Article 16(4) of the Constitution of India. In this view, I do not find justification to interfere with the orders impugned. The application is accordingly dismissed, but in the circumstances of the case, there will be no order as to costs.