

A STATE OF ORISSA AND ANR,
v.
DAMODAR NAYAK AND ANR.

MARCH 31, 1997

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

C *Service Law—Grant-in-aid Scheme—Entitlement to salary under the Scheme—Respondent appointed as Lecturer—Question whether he was entitled to receive grant-in-aid for payment of salary from the date of his acquiring qualification or from the date of initial appointment—Held admittedly, since the first respondent on the date of his appointment was not possessing the requisite qualification and acquired the same only on March 21, 1989, he will be eligible to the benefit of the grant-in-aid w.e.f. April 1, 1989 and onwards.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2666 of 1997.

From the Judgment and Order dated 23.4.96 of the Orissa High Court in O.J.C. No. 3548 of 1996.

E P.N. Misra for the Appellants.

The following Order of the Court was delivered :

F The report of the Registry indicates that the service is complete. However, the respondents are not appearing either in person or through counsel.

Leave granted.

G The question limited to the notice is : whether the respondent would be entitled to payment of salary under the Grant-in-Aid Scheme from the date of initial appointment till he improved his qualification or from the date of his acquiring the qualification? The admitted position is that respondent No. 1 came to be appointed as a lecturer in 1976. The Government issued clarification on January 5, 1987 that unqualified lectures having minimum second class, i.e., 48% or above and below 54% of marks in P.G. examination and appointed on or after 1.8.1977 in recognised non-Govern-

ment Colleges would be eligible to receive grant-in-aid. The Resolution dated September 13, 1983 issued by the Government prescribes the qualification for recruitment of Lecturers of affiliated Colleges which indicates that "candidate not holding an M. Phil degree should possess a high second Class Master's degree, i.e., 54% marks and a second class Honours/Pass in the B.A./B. Com./B.Sc. examination." Respondent No. 1 secured 53.9% marks, which is almost equivalent of 54% marks, on March 21, 1989. Therefore, the question arises : whether the second respondent is entitled to receive grant-in-aid for payment of salary to the first respondent from the date of his acquiring qualification or from the date of initial appointment? Admittedly, since the first respondent on the date of his appointment was not possessing the requisite qualification and acquired the same only on March 21, 1989 he will be eligible to the benefit of the grant-in-aid w.e.f. April 1, 1989 and onwards.

The appeal is accordingly allowed and the order of the High Court passed on April 23, 1996 in OJC No. 3548/96, to that extent stands modified. No costs.

T.N.A.

Appeal allowed.