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STATE OF ORISSA AND ORS.

v.

JOY PRAKASH PANDA AND ANR.

SEPTEMBER '9, 1994

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Service law :

C *Rehabilitation scheme for assistance to families of non Govt. Primary school teachers dying in service—Death of teacher before the scheme came into force—Claim for relief after the scheme came into force—Relief granted by Tribunal—Held scheme was applicable only to teacher dying subsequent to enforcement of scheme—But case held not fit for interference by the Supreme Court.*

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With a view to providing rehabilitation assistance to the families of non-government primary school teachers who die or suffer from permanent incapacity while in service, the appellants-State evolved a scheme on May 28, 1985. Under the Scheme one member of the family of the deceased or permanently disabled teacher was eligible for appointment in a class-III or class-IV post under government or as a primary school teacher. The respondent, whose father was murdered before the scheme came into force, claimed relief after the scheme came into force, which was granted by the Tribunal.

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F In State's appeal to this Court it was contended that the Tribunal erred in granting the relief to the respondent because the scheme has no application to teachers who died prior to the scheme came into force.

Dismissing the petition, this Court

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HELD : The scheme states that the facility of rehabilitation would be given to the family of non-government primary school teachers who died or suffer permanent incapacity while in service. Thus it would be clear that the death of a teacher while in service or disability to a teacher should occur after the scheme has come into force. Therefore, an application made in compliance with the conditions prescribed therein should be in respect of the teacher who dies or suffers permanent disability after the scheme

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has come into force. However, since the Tribunal has exercised the discretion and given the benefit to the respondent who is also qualified for appointment to the post in class III or class IV or untrained primary school teacher, it is not a fit case for its interference. [356-D-E]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 16792 of 1994.

From the Judgment and Order dated 16.8.93 of the Orissa Administrative Tribunal, Bhubaneswer in O.A. No.617 of 1990.

Ms. Kirti Misra for the Petitioners.

The following Order of the Court was delivered :

The Government in its proceedings no. 20300 dated May 28, 1985 evolved a scheme to accord rehabilitation assistance to the families of a non-government primary school teacher who die or suffer from permanent incapacity while in service. They have prescribed that one member of the family of the deceased or permanently disabled non-government primary school teachers will be eligible for appointment in a class three or class four posts under Government including a post of primary school teacher or as the primary school teacher in a non-government primary school subject to the condition that the member of the family who seeks to avail of this facility possesses the requisite educational qualifications required for the post. If such a person seeks appointment as a primary school teacher whether in a government or in a non-government primary school, he may be appointed as such if he possesses the requisite educational qualifications. If such person does not possess the requisite training qualification, he/she shall be required to acquire the necessary training qualification within a period of three years from the date of appointment as a teacher in a primary school. An untrained person appointed as a primary school teacher would receive pay in the scale applicable to untrained matriculate till he/she acquires the training qualifications.

Clause II further provides that the above facility will be available to one member of the family of the deceased or permanently disabled primary school teacher provided due to the death or permanent disability occurred prior to the period of the normal date of superannuation and not during the period of re-employment or extension of service after retirement. For

A the purpose of rehabilitation it was initiated to either husband or wife, son or daughter including adopted son or daughter, step son or daughter or dependent brother or sister. Applications for rehabilitation assistance shall be received within a period of five years from the date of death or permanent disability.

B It is contended that the teacher, father of the respondent, was murdered on September 15, 1984 and the application was made after the scheme has come into force. The scheme has no application to the teachers who died prior to the scheme came into force. The direction given by the Tribunal in OA No. 617/90 dated August 16, 1993 is contrary to the scheme since it was not intended for the benefit of dependents of those non-government primary teachers who died or suffered disability prior to this scheme has come into force. We find force in the contention. It states that the facility of rehabilitation to the family of non-government primary school teachers would be given to the teacher who dies or suffers permanent incapacity while in service. In other words, it would be clear that the death of teacher while in service or disability to a teacher should occur after the scheme has come into force. Therefore, an application made in compliance with the conditions prescribed therein should be in respect of the teacher who dies or suffer permanent disability after the scheme has come into force. However, since the Tribunal has exercised the discretion and given the benefit to the respondent no. 1 who is also qualified for appointment to the post in class III or class IV or untrained primary school teacher we find it not a fit case for interference.

The SLP is accordingly dismissed.

T.N.A.

Petition dismissed.