

[2023 LiveLaw \(SC\) 271](#)

IN THE SUPREME COURT OF INDIA
V. RAMASUBRAMANIAN; J., PANKAJ MITHAL; J.
Special Leave to Appeal (C) No(s). 27633/2017; 28-03-2023
SUNIL KUMAR SONI versus STATE OF RAJASTHAN AND ORS

Constitution of India, 1950; Article 14 - Doctrine of equality - there cannot be equality in the matter of illegality - can't claim benefit of illegal orders passed in the cases of other persons - denies relief to school teacher who secured bachelor's degree through distance education.

(Arising out of impugned final judgment and order dated 04-05-2017 in DBSCA No. 1418/2016 passed by the High Court of Judicature for Rajasthan at Jaipur)

For Petitioner(s) Mr. Praveen Swarup, AOR Mr. N. K. Mody, Sr. Adv. Mr. Prabuddha Singh Gour, Adv. Mr. Sukhamrit Singh, Adv. Mr. Suresh Kumar Bhan, Adv. Ms. Ishita M. Puranik, Adv.

For Respondent(s) Mr. Vishal Meghwal, Adv. Ms. Padhma Lakshmi, Adv. Mr. Milind Kumar, AOR

ORDER

The petitioner has come up with the above special leave petition challenging the dismissal of an intra court appeal by the Division Bench of the High Court of Judicature for Rajasthan, Jaipur Bench.

We have heard Mr. N. K. Mody, the learned senior counsel for the petitioner and the learned standing counsel for the State.

The petitioner was appointed as a Teacher in the Government Middle School, with effect from 16.03.1999. Within 15 days, his services were terminated by order dated 01.04.1999 on the short ground that he had secured a Bachelor degree in Education through the distance education mode from Jiwaji University, Gwalior.

Challenging the order of termination, the petitioner filed a writ petition. The writ petition was dismissed by the learned Single Judge by an order dated 24.05.2016. The said order was confirmed by the Division Bench by the order impugned herein dated 04.05.2017. Hence, the present special leave petition.

Before we get into the merits, it must be highlighted that the petitioner actually rendered service for 15 days from 16.03.1999 to 01.04.1999. From the year 1999 he is not in service and a period of 24 years has now passed.

Now coming to the merits of the case, the contention of the learned senior counsel for the petitioner is that the very same learned Judge, passed an order in favour of other candidates who had secured a Bachelor degree in Education through distance education mode and that therefore passing different orders in favour of different individuals was actually not a matter of judicial propriety. The learned counsel relies heavily upon the decision of this Court in **Official Liquidator vs. Dayanand** reported in **(2008) 10 SCC 1**, in paragraph 90 of which, this Court deprecated the practice of the different Benches passing different orders.

We have carefully considered the above submissions, it is true that persons appointed along with the petitioner on the very same date namely 16.03.1999 and terminated by similar orders of the same date namely 01.04.1999 were given the benefit of confirmation by the same learned Judge.

But unfortunately for the petitioner, the question of law on the issue of eligibility of persons holding Bachelor degree in Education through the distance education

mode is already settled by this Court. Therefore, if other people have secured the benefit of an order, those orders are not in accordance with the law laid down by this Court. It is well settled that there cannot be equality in the matter of illegality. Therefore, the petition deserves to be dismissed.

Accordingly, the special leave petition is dismissed.

Pending application(s), if any, shall stand disposed of.

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