
(2009) 01 AHC CK 0071
In the Allahabad High Court

Anupam Sharma

APPELLANT

Vs

State Of U.P. & Others.

RESPONDENT

Date of Decision : 01-01-2009

Acts Referred:

Citation : (2009) 01 AHC CK 0071

Hon'ble Judges : Amitava Lala, J and Shishir Kumar, J

Final Decision : Disposed Of

Judgement

1. Petitioner's grievance is that the post of Reader in Political Science as notified in the advertisement dated 11th July, 2009 published in daily news paper "Dainik Jagaran" cannot be said to be reserved category post being the single cadre post but the same was opposed by the respondents saying that the posts of Lecturer, Reader and Professor can be clubbed together and form a "cadre" for such purpose, hence, any of such posts within such cadre can be reserved.

2. Today we have heard the parties and gone through several judgments. We find that initially in [(1997) 9 SCC 662], State of U.P. vs. Dr. Dina Nath Shukla it was held that when such posts form a cadre subject wise then rule of reservation will be applicable but thereafter in [(2004) 12 SCC 333] State of U.P. & others vs. M.C.Chattopadhyaya and others three Judges' Bench of Supreme Court has held that the conclusions of Supreme Court in the case of Dr. Dina Nath Shukla (supra) is no longer good law in view of the Constitution Bench judgment reported in [(1998) 4 SCC 1] Post Graduate Institute of Medical Education & Research vs. Faculty Association and others and therefore, we have further checked up and ultimately found that the latest view on the point is similar. Following the ratio propounded by 5 Judges' Constitution Bench recently it has been held in [(2009) 1 SCC 1] State of Karnataka and others vs. K.Govindappa and another as follows:

"The expressions "cadre", "post" and "service" cannot be equated with each other, but at the same time the submission that single and isolated posts in respect of different disciplines cannot exist as a separate cadre cannot be

accepted. In order to apply the rule of reservation within a cadre, there has to be plurality of posts. Since there is no scope of interchangeability of posts in the different disciplines, each single post in a particular discipline has to be treated as a single post for the purpose of reservation within the meaning of Article 16(4) of the Constitution. In the absence of duality of posts, if the rule of reservation is to be applied, it will offend the constitutional bar against 100% reservation as envisaged in Article 16 (1) of the Constitution."

3. Therefore, in totality, we find that impugned advertisement cannot be sustained, hence, it is set aside to be issued afresh in future keeping eyes open with regard to the judgments of this Court as well as the apex Court. Accordingly, the writ petition is disposed of, however, without any order as to cost.