

(1992) 11 AHC CK 0091

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 35441 of 1992

Anupma Tewari

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-11-1992

Acts Referred:

Citation : (1993) 2 AWC 1037

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : G.C. Bhattacharya, for the Appellant;

Final Decision : Disposed Of

Judgement

Sudhir Narain, J.—This writ petition has been directed against the letter dated 19-8-92 by which the Petitioner was directed to present herself for admission in Kishohri Raman L.T. Training College, Mathura by 25th of August 1992.

2. The Petitioner claimed that she was entitled for admission either in Government Women L.T. Training College Allahabad or in K.P.L.T. Training College, Allahabad for which she had given option at the time of examination. It is necessary to look into the scheme of admission in the L.T. Training Colleges in Uttar Pradesh There are thirteen colleges which have one year course for certificate of Licentiate of Teaching (in short L.T.) for which minimum qualification is graduate in any one subject from a recognized university. The selection of candidates an examination for Training Colleges is under the control of Registrar. Departmental Examinations, U.P. Till the year 1987 the selection in Government Training Colleges, number of which are five in the state of U.P., was made by District Inspector of Schools on the basis of marks and interview held under the direction of Registrar Departmental Examination and Deputy Director Education. In the remaining eight private recognized Training Colleges, Registrar Departmental Examinations authorised District Inspector of Schools of respective districts to nominate a person to supervise the selection of candidates in privates

recognised Training Institutions which was made on the basis of marks-cum-interview.

3. In the year 1987 a scheme was published for Training Colleges in which complete rules and directions were framed to be followed for selection in admission of candidates in L.T. & C.T. (Home Science and Nursery) Training Colleges. Under the said scheme all the Training Colleges were asked and directed to follow the procedure of admission as prescribed in the scheme and a combined selection examination was to be held. The selection procedure was based on written examination, educational qualification, extra-curricular qualification and interview for allotment of candidates for admission in Training Colleges, each candidate in application form for admission itself, had to Indicate the names of three Training Colleges in which he wanted to take admission. A list of candidates was to be prepared on the basis of option-cum-merit who may be entitled to be admitted in the Training Colleges. In this manner admission list was to be prepared college wise.

4. In this procedure a candidate who had given option for a particular institution in which the seats had already been filled by candidates of higher merits, the candidate was never considered for any other institution for which he had not given any option on though the seats might have been vacant in such other institutions. This portion continued till the year 1991 on 27th January 1992 the Government issued a G.O. by which the rules were amended so as to provide a further chance to such candidates who could not be admitted in an institution of option given by them. In this amended G.O. a second merit list was prepared and this merit list was not to be prepared college-wise but a combined list of all the Training Colleges of the State. The amended rule further provides that the candidates to whom admission could not be given in accordance with their option, shall be permitted to be admitted in the Training Colleges according to merit in the second list and secondly, to such colleges whose list was prepared in accordance with Dev Nagari Alphabetical order and the candidates of second list are to be allotted serially a Training College in which their number, falls and according to availability of vacant seats. In some cases the candidates selected in a particular college did not Join and their seats were declared vacant. The result of such procedure may be summarised as follows:

- (1) The list is prepared college-wise on the basis of option-cum-merit.
- (2) The second list is prepared on the basis of merit and a college is allotted to a candidate arranged in Dev Nagari Alphabetical form.
- (3) The waiting list of such candidates who gave option for a particular Training College but could not be admitted because they secured less marks in merit, but in case the candidates who were allotted seats in such college, do not Join, the left out candidates get preferential right of admission to such college.

5. The learned Counsel for the Petitioner contended that there was no G.O. dated 27th January 1992. The Respondent has filed a circular issued by the Special

Secretary dated 2nd March 1992 and it refers to G.O. No. 143/15/13-92-1450/25/91 and there is presumption that such G.O. exists on the basis of which the circular was issued.

6. It was further contended that the amendment which was made in the G.O. as disclosed in the said circular will have no retrospective effect. The last date of submitting the application was 16th January 1992 and the G.O. was dated 27th January, 1992 it is not disputed that the first and second lists were prepared after the said circular was issued. It was beneficial to the candidates. In a case where the G.O. is issued which gives benefit to the candidates, it is prospective and such candidates can take benefit of such circular which comes into force prior to the selection had taken place. In fact, the G.O. gave chance to candidates to get admission in different Training Colleges although they had not opted for the same and failed to qualify themselves to get admission in colleges of their option. In case the G.O. is ignored the candidates who had not given option for such colleges would be deprived of the right to get admission in any of the Training Colleges. The G.O. is remedial one. It is not retrospective. A statute is not treated retrospective because a part of the requisites for its action is drawn from a moment of time prior to its passing *Vide Kapur Chand v. B.S. Grewal* AIR 1965 SC 1491 *G.P. Shiva Prakash v. Union of India* AIR 1968 Mys. 245.

7. On behalf of the Respondents a counter affidavit has been filed which indicates that the Petitioner has secured 137.5 marks. In Government Women Training College, Allahabad 23 candidates from general category were selected and the last candidate had secured 140.5 marks and in K.P.L.T. Training College 27 candidates of general category were selected and the marks of the last candidate was 138.5. It is clear that the Petitioner could not be admitted on the basis of the said option-cum merit list. The name of the Petitioner finds place at serial No. 2 for Kishori Raman L.T. Training College, Mathura which was prepared in the second merit list. The Petitioner was offered admission in the Training College on the basis of the second merit list which was prepared in accordance with this amended G.O. dated 27th January, 1992.

8. There are certain candidates who have been selected for admission in the various Training Colleges on the basis of quota reserved for certain categories of candidates. The Petitioner challenged such reservation. In the scheme which was framed in 1987 certain quota was fixed for various categories of candidates. The Petitioner also submitted examination form and in that it was specifically provided that candidate should indicate the category for which he is claiming for. The Petitioner had herself applied for in general category. The reservation was never challenged and it was not open for the Petitioner to challenge the reservation of seats for various kinds of candidates.

9. It was lastly submitted that there are six vacancies in K.P.L.T. Training College, Allahabad as out of 23 candidates who were offered admission in that college on the basis of option-cum-merit did not join the said college and the Petitioner was entitled to be admitted as she had given option for the said college.

10. The learned standing counsel rightly submitted that the Petitioner should have first taken admission in Kishori Raman L.T. Training College, Mathura Inasmuch as if a candidate is offered a particular seat and does not join the said seat is taken as vacant. It is only after the Petitioner had joined the said college, she could have applied for admission in K.P.L.T. Training College, Allahabad and as the Petitioner had given the choice she could have been given admission. Sri Ashok Mehta, learned standing counsel appearing on behalf of the Respondents fairly gave an undertaking on behalf of the Respondents that in case the Petitioner joins at Kishori Raman L.T. Training College Mathura and after such Joining moves an application for admission in the said college, she would be admitted. On these facts, the writ petition is disposed of with the following directions.

11. The Petitioner will join Kishori Raman L.T. Training College, Mathura within a period of ten days from today and after she Joins the said college, she will submit an application to the Principal, K.P.L.T. Training College, Allahabad and Registrar Departmental Examinations for admission and on such application being submitted she will be given admission in the said college within ten days from the date of presentation of the application along with a certified copy of this order. The Principal, K.P.L.T. Training College is directed to keep one seat reserved for the Petitioner for a period of one month from today.