

(2001) 03 SC CK 0027

In the Supreme Court Of India

Case No : Civil Appeal 1838 and 1853 of 2001 and Special Leave Petition (Civil) 13651, 13652, 15349, 16833, 16834, 10720,??15164, 19613, 1544, 4904, 4905, 8837, 11352, 17148, 171419 and 3374 of 1999, 2000, 1999

Bhoodev Singh and Others

APPELLANT

Vs

Chairman, U.P.S.E.B. and Others

RESPONDENT

Date of Decision : 14-03-2001

Acts Referred:

Electricity Supply Act, 1948 — Section 79(c)
Uttar Pradesh Electricity Board Subordinate Electrical and Mechanical Engineering Service Regulatios, 1972 — Regulation 5, 5(b), 5 (b)(1), 13, 16, 17, 18

Citation : (2002) 4 AWC 3035 Supp

Hon'ble Judges : U. C. Banerjee, J;G. B. Pattanaik, J;B. N. Agrawal, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

G.B. Pattanaik, U.C. Banerjee and B.N. Agrawal, JJ.—Delay condoned,

2. Application for filing the amended memo of parties stands rejected.

3. Application for impleading party stands rejected.

4. Leave granted.

5. In this bunch of cases, the question for consideration is whether the view taken by the Full Bench of Allahabad High Court is correct or not. In fact, the aforesaid decision of the Full Bench has been affirmed by a Bench of two learned Judges of this Court in the case of U. P. Rajya Vidyut Parishad Apprentice Welfare Association and Anr. v. State of U. P. and Ors. 2000 (3) AWC 1898 (SC) : JT 2000 (6) SC 227. These cases deal with the question of appointment to the different posts in different departments governed by different set of Rules and/or administrative instructions. When the matter had been placed before a Bench of two learned Judges of this Court, the Bench thought that there is some conflict

between the law laid down by this Court, in the aforesaid judgment 2000 (3) AWC 1898 (SC) : JT 2000 (6) SC 227 and the decision of this Court rendered in Tamil Nadu Electricity Board v. P. Aral and Ors. C.A. Nos. 5285-5328 of 1996, disposed of on 3rd October, 1996. All these disputes stem from the three-Judge Bench decision of this Court in the case of Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, . There has been an elaborated discussion on different provisions of the Apprentices Act, 1961, and the object behind those provisions, and finally in paragraph 12 of the said judgment, the Court has culled out the relevant criteria, which should be borne in mind while dealing with the claim of trained apprentices to get any employment after successful completion of their training. In paragraph 13 of the said judgment. the Court has indicated as to what would be the mode for consideration in the cases in hand, and it is in that context, the Court said that such apprentices would not be required to appear in the written examination. The aforesaid statement made in paragraph 13 cannot be of universal application irrespective of the relevant provisions of the Rules/ Regulations/ Executive instructions dealing with the matter of appointment to different posts, and, therefore, the Full Bench of the Allahabad High Court was justified in its conclusion with regard to the requirement of any written test. In other words, if any particular service Rule/Regulation, the process of selection indicates that there would be a written examination and viva-voce interview, an apprentice/trainee would not be entitled to say that he is not required to take any of those tests. Undoubtedly, the trainee would get an advantage over a fresh direct recruit in the matter of employment, as has been held by this Court in the V. P. State Road Transport Corporation case. The judgment of this Court approving the aforesaid Full Bench decision of the Allahabad High Court, in 2000 (3) AWC 1898 (SC) : JT 2000 (6) SC 227. therefore, does not require any reconsideration. At this stage, we may also notice, yet another judgment in Tamil Nadu Electricity Board v. P. Anil, wherein certain observations have been made, which may indicate that the apprentices/trainees are not required to sit in the written test, but only in a selection where viva-voce test is provided. The aforesaid statement in Arul case has been too broadly stated and cannot be held to a law laid down in cases of all appointments to different cadre governed by different sets of recruitment rules or regulations framed for the purpose.

6. It was brought to our notice, while Mr. Dwivedi was arguing the first matter, that the appointment to the post of Junior Engineer under the U. P. State Electricity Board is governed by a set of regulations framed u/s 79(c) of the Electricity Supply Act, 1948, called the Uttar Pradesh State Electricity Board Subordinate Electrical and Mechanical Engineering Service Regulations, 1972. Under the said regulations, recruitment to the post of Junior Engineer is made under Regulation 5 and whereas 5 (a) deals with selection grade, 5 (b) deals with ordinary grade and when the recruitment is made to the Junior Engineer in the ordinary grade under Regulation 5 (b), it could be either made by direct recruitment from Apprentice Junior Engineers selected in accordance with the

procedure laid down in part 5 of the Regulations or by promotion in accordance with the procedure laid down in Regulations 17 and 18. No further provision could be pointed out to indicate that even a direct recruitment from the outside could be made within the ambit under Regulation 5 (b)(1) and it has to be made only from Apprentice Junior Engineers, who have already been selected in accordance with the procedure laid down in part 5. Part 5 also deals with the procedure of selection of Apprentice Junior Engineers in Regulation 13, whereas Regulations 16 and 17 deal with promotion. We fail to understand how an advertisement could be issued for filling up of the post of the Junior Engineer under the State Electricity Board directly from open market, which is not contemplated under Regulation 5 (b) (1). In so far as recruitment to different other posts are concerned, the High Court has not applied its mind to different provisions dealing with the matter of recruitment to different posts, and therefore, in fitness of things, we think it appropriate to remit all the matters to the High Court where the High Court would go into the relevant provisions as well as the relevant advertisement for filling up of different posts and then decide the question as to whether in a given case, the requirement of written examination is provided in any regulation so that even apprentice could be compelled to appear in the same or there is no such provision in which case apprentices may not be required to undertake the said examination, though they will have to undergo the process of selection otherwise. Without applying mind to the specific provision of the recruitment to different posts, the aforesaid problem cannot be solved. It is in these circumstances, we remit all the matters to the High Court for being reconsidered in the light of the observation made by us. Since these matters require urgent consideration by the High Court, we request the learned Chief Justice to get these matters heard at an early date preferably within 3 months from today.

7. SLP (C.) No. 10844 of 2000 : This SLP is directed against the judgment of the C.A.T. dated 2nd February, 2000 in O.S. 334 of 1999 and O.A. 390 of 1999. In view of the judgment of this Court in Chandra Kumar's case, the petitioner should have moved the Delhi High Court against the same. We, therefore, decline to entertain this petition. It is accordingly dismissed. However, it would be open for the petitioner to move the High Court of Delhi.

8. SLP (C.) No. 7214 of 2000 : Heard.

9. The SLP is dismissed.