
(1995) 03 SC CK 0163

In the Supreme Court Of India

Case No : Civil Appeal No. 4724 of 1995

Dr Kashinath Nagayya Ibatte

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 31-03-1995

Acts Referred:

Citation : (1996) LabIC 588 : (1995) 3 SCALE 54 : (1995) 3 SCC 363 Supp : (1995) 3 SCR 115

Hon'ble Judges : N. Venkatachala, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : Manoj Swarup, for the Appellant; K. Madhava Reddy, Senior Advocate, S.M. Jadhav and A.S. Bhasme, for the Respondent

Final Decision : Disposed Of

Judgement

1. Leave granted. We have heard counsel on both sides.
2. The appellant being a Scheduled Tribe candidate was appointed initially in 1981 to a vacancy reserved for the Scheduled Tribes and thereafter he had been continuously working as a Lecturer till 1993. It is also on record that he is a specialist in Anatomy and Surgery. As regards his qualifications and eligibility and experience to hold the post, the Government has not, in fairness, disputed. The only dispute is whether he could be allowed to continue in service, when candidates selected and appointed by the Public Service Commission (PSC) are available for appointment?
3. It is settled law that temporary candidates working on ad hoc basis have to give place to the candidates selected by the PSC and appointed by the Government, in accordance with rules. It is not in dispute that the appellant appeared for selection in three vacancies reserved for Scheduled Tribes but he was not among three candidates selected. The respondents who are appointed in the vacancies are the candidates selected by the PSC and recommended for appointment. The Government has appointed them on a regular basis. Under

those circumstances, the appellant has to give place to the candidates regularly selected and appointed.

4. It is, however, not in dispute that at present, there are 22 vacancies existing which are yet to be filled in. Under these circumstances, it would be open to the Government to consider the case of the appellant and take the service of the appellant who had put in more than 12 years of service in one of the unfilled posts, of course, subject to the selection by the PSC. By the date of selection, if he becomes barred by age, the Government is directed to suitably relax his age and consider him for appointment according to rules.

5. The appeal is accordingly disposed of. No costs.