

(1994) 09 SC CK 0084

In the Supreme Court Of India

Case No : Writ Petition (C) No"s. 151 of 1989 and 670 of 1993 and SLP (C) No"s. 9765-66 of 1994

Ex-Emergency Commissioned Officers and Short
Commissioned Officers" Welfare Assn. and Another

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 20-09-1994

Acts Referred:

Citation : (1994) 6 JT 265 : (1994) 4 SCALE 255 : (1995) 1 SCC 78 Supp :
(1995) 1 SCC 78 : (1994) 3 SCR 712 Supp : (1995) 1 SLJ 224 : (1995) 1 UJ 41

Hon'ble Judges : Kuldip Singh Singh, J;B. L. Hansaria, J

Bench : Division Bench

Final Decision : dismissed

Judgement

B.L. Hansaria, J.—The Released Emergency Commissioned Officers and Short Service Commissioned Officers (Reservation of Vacancies) Rules, 1971 (for short, the Rules) came to be framed by the President of India to compensate the emergency commissioned officers for the chances they had lost by entering public services during the time the country needed them. The Rules apply to those who were commissioned after the 1st November, 1962 but before the 10th January, 1968 and make certain percentage of reservation in all Central Civil Services and their seniority, on entering these services, is determined on the assumption that they entered the same "at the first opportunity they had after joining the training prior to their Commission or the date of their Commission". The prayer of the All India ex-Emergency Commissioned Officers and Short Service Commissioned Officers Welfare Association and other petitioners is that the same benefit should be made available to these categories of persons when they join the non-reserved posts also.

2. Shri Kapoor who addressed us on behalf of the aforesaid Association has strenuously contended that as the object behind the framing of the Rules was to compensate for the lost opportunity there is no rational basis in classifying the

aforesaid officers in two categories - holders of reserved posts and non-reserved posts. According to the learned Counsel, such a classification is hit by Article 14 on the well accepted principle that a classification to pass the test of this Article is not only to be founded on intelligible differentia, but the same must also have a rational relation to the object sought to 'be achieved i.e, there must be a nexus between the basis of classification and the object behind the same.

3. There can be no quarrel with the aforesaid legal proposition; it has become well entrenched by now. We do not, however, view this matter as one of classifying the aforesaid ex-servicemen in two categories mentioned by Shri Kapoor. According to us, a policy decision was taken to give some benefit to those servicemen who had stood with the people when the country was invaded and has rendered useful service during the emergency in question. How much benefit and in what shape it ought to have been given are not matters on which courts can have any say, these are exclusively for the executive to decide. The courts come into picture in such policy matters if the same be either illegal or irrational or were to suffer from procedural impropriety, as reiterated recently by this Court in *Tata Cellular Vs. Union of India*, . We do not find any such infirmity in the policy at hand.

4. This is not all. As the recruitment for the reserved post is through separate method, as stated in para 6(b) of the reply filed on behalf of respondents No. 1 and 2 to Writ Petition No. 151 of 1989, there is no possibility of some of the released officers obtaining reserved posts with the benefit available under the Rules, and others obtaining non-reserved posts with no benefit visualised by the Rules. So the two types of incumbents have to be taken as belonging to two different categories; the one having no clash of interest with the other; the one being denied no benefit available to the other.

5. In view of the aforesaid, we are not in a position to concede the prayer made in these petitions. They are, therefore, dismissed. We leave the parties to bear their own costs.