

(2001) 10 SC CK 0142

In the Supreme Court Of India

Case No : SLP(C) No.-012883-012884 / 2000

M.P. Electricity Board, through the Chief Engineer, M.P.E.B.

APPELLANT

Vs

Virendra Kumar Sharma

RESPONDENT

Date of Decision : 09-10-2001

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : AIR 2002 SC 2635 : (2002) AIRSCW 2957 : (2002) 4 ALLMR 265 : (2002) 92 FLR 766 : (2002) 1 JLJ 161 : (2001) 10 JT 517 : (2002) 9 SCC 650

Hon'ble Judges : S. Rajendra Babu, J;Doraiswamy Rajuu Raju, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Pursuant to an advertisement issued by the appellant, respondent was selected to the post of Testing Assistant Grade II (Operator).

2. Out of a panel of 38 selected persons only 22 persons were appointed. The respondent who remained without being appointed filed a writ petition before the High Court. A learned single Judge of the High Court following the decision of the same Court in Shivsingh v. State of M. P., 1988 (1) MPWN 24 held that in the absence of any statutory rule requiring waiting list to lapse beyond prescribed limit, the action of the appellant is arbitrary and on that basis gave a direction to consider the case of the respondent for appointment as per law declared In the said decision. The matter was carried in appeal. In appeal the view expressed by the learned single Judge was reiterated and the appeal stood dismissed. Hence, this appeal by special leave.

3. Shri V.R. Reddy, learned senior advocate appearing for the appellants brought to our notice that the selections had been made pursuant to the procedure prescribed by the M.P.E.B. Circular No. PD. IV/1028 dated 9-12-1968. That circular not only provides the mode of selection but also that the panel prepared would be for a specific period not exceeding one year and whenever that period expires, a fresh panel should be prepared and the unoperated portion of the

earlier panel stands revoked. Shri Reddy submitted that, the Board had acted on the basis of this provision and, therefore, did not propose to appoint all the candidates selected and included in the panel; that, the case of the appellant stands entirely on a different footing from the one dealt with by the High Court. The decision in *Shivsingh v. State of M. P.*, 1988 (1) MPWN 24 stood upon the language of the Rules for selection and appointment and which did not provide any lapsing of the list after a particular time limit. In those circumstances the Court directed that those in the waiting list should also be appointed; that, the principle in *Shivsingh's* case cannot be applied in the present case and drew our attention to the decision of this Court in *Rakesh Ranjan Verma and others Vs. State of Biha and others*, in support of this contention.

4. Mr. Sushil Kumar Jain, learned counsel appearing for the respondent relied upon a decision of this Court in *Dr. Uma Kant Vs. Dr. Bhika Lal Jain and others*, and submitted that in the case of selection made in that case also there was a rule which provided for the reservation of list valid up to six months and this Court took the view that the persons kept in the reserve list will be considered as having been selected and shall be entitled if any vacancy is caused during the validity period of the reserve list.

5. Any scheme for selection will depend upon the terms on which selections are made. In the present case, there is a scheme as provided in the circular dated 9-12-1968 and that circular also provided for the panel to be valid/current for a particular period namely one year. After that period, the list would lapse and fresh panel has to be prepared. If that is the scheme, none of the decisions relied upon by the learned counsel for the respondent would be of any assistance. The High Court is also not justified in relying upon the decision in *Shivsingh's* case inasmuch as the scheme of appointment was entirely different. Moreover the validity/currency of panel was for a particular period; that is a salutary principle, behind that Rule so that after the selections are made and appointments to be made may take long time, it is possible that new candidates may have become available who are better or more qualified than those selected, and if they are appointed it would be in the best interests of the institution. Hence we do not think there was any justification for the High Court to have interfered in the matter and directed appointment of the respondent. The order made by the High Court is set aside and the writ petition filed by the respondent shall stand dismissed. The appeal is allowed accordingly.