
(1992) 06 AHC CK 0002

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 20969 of 1992

Naresh Chand

APPELLANT

Vs

District Inspector of Schools, Ghaziabad and Others

RESPONDENT

Date of Decision : 18-06-1992

Acts Referred:

Constitution of India, 1950 — Article 14, 15(4), 16(4)
Uttar Pradesh Secondary Education Services Commission and Selection Boards Act,
1982 — Section 18

Citation : (1992) 3 AWC 1574

Hon'ble Judges : M. Katju, J

Bench : Single Bench

Advocate : S.C. Budhwar and Arun Tandon, for the Appellant;

Final Decision : Allowed

Judgement

M. Katju, J.—This writ petition has been filed praying for a writ of certiorari quashing the impugned order of the District Inspector of Schools, Ghaziabad dated 20-5-1992 (Annexure-9 to the writ petition) and for a writ of mandamus directing the Respondents to pay salary to the Petitioner as ad hoc Lecturer in Chemistry regularly, and not to interfere with his working as ad hoc Lecturer in Chemistry in Sri Sarswati Inter College, Hapur, district Ghaziabad till a regularly selected candidate selected by the Commission joins the post.

2. I have heard S.C. Budhwar, learned Counsel for the Petitioner and the learned Standing counsel for the Respondents. Since the dispute in this case is a purely legal dispute, and no factual controversy is involved, it is not necessary for me to call for a counter affidavit. Hence, I am disposing of this petition finally.

3. The post of Lecturer in Chemistry in the aforesaid college fell vacant when Sri R.P. Sharma retired on 30-6-91. Consequently, a requisition was sent u/s 18 of the U.P. Secondary Education Service Commission Act by the management, and since the Commission did not fill up the vacancy within time, the Committee of Management advertised the post of Lecturer in Chemistry, and the selection

committee selected the Petitioner, who belongs to the backward caste community (By its resolution dated 10-7-1991 the Committee of Management resolved to appoint the Petitioner after accepting the recommendation of the Selection Committee and by order dated 11-7-1991 the Petitioner was appointed ad hoc Lecturer in Chemistry vide Annexure-4 to the writ petition. The Petitioner joined on 12-7-1991 and since then he has been continuing in service.

4. The impugned order dated 20-5-1992 (Annexure-9 to the writ petition) was passed by the District Inspector of Schools cancelling the Petitioner's ad hoc appointment as Lecturer in Chemistry on two grounds. Firstly, it is stated in the said order that the Petitioner's appointment was illegal because he was appointed before the expiry of sixty days from the date of notification of the vacancy u/s 18 of the Act. In my opinion, since it is admitted that as yet the commission has not made a regular selection, the aforesaid defect pointed out by the District Inspector of Schools can at best be held to be an Irregularity and not an illegality. The Petitioner has admittedly joined on 12-7-1991 and has been working since then. Hence, I direct that his appointment will be treated to have been made only on the expiry of sixty days from the date the vacancy was notified u/s 18 of the Act. The impugned order to this extent is consequently erroneous in law.

5. The second ground on which the Petitioner's appointment was cancelled was that he did not belong to the Scheduled Caste, and since the post of Lecturer in Chemistry was reserved for a Scheduled caste candidate, the Petitioner's appointment was illegal. The Petitioner belongs to the backward caste (as is evident from para 6 of the petition), and not Scheduled caste. The question, therefore, is whether reservation of the post of Lecturer in Chemistry is constitutionally valid.

6. The policy of reservation, as contemplated by Article 5(4) and 16(4) of the Constitution of India is basically a compromise between the need for excellence on the one hand, and the need for making special provision for the advancement of socially and educationally backward classes or scheduled castes, Tribes on the other hand. However, in my opinion the time has now come when it must be boldly and clearly said that there can be no compromise in the field of Science and technology.

7. Today our country is passing through one of its worst patches in our 6000 years old known history. In my opinion, it is only science which can save us from total annihilation. Unless we now adopt the scientific path and scientific outlook foreign nations will totally dominate us and ruin us. Science, therefore, is the only means of solving our country's problems.

8. When our country was on the scientific path it prospered. With the aid of science we had built mighty civilizations thousands of years ago when most people in Europe (except Greece and Rome) were living in forests (see Will Durant's The Story of Civilizations Our Oriental Heritage). We had made

outstanding scientific discoveries, e.g. the decimal system in Mathematics, plastic surgery in medicine, etc However, we subsequently took to the unscientific path of superstitions and empty rituals, which has led us to disaster. The way out therefore is to go back again to the scientific path shown by our ancestors the path of Aryabhatta and Brahmagupta, Sushrut and Charak, Ramanujan and Raman.

9. When we examine the validity of the reservation policy, therefore, we must keep the above considerations in mind. While the socially and educationally backward classes and scheduled castes should certainly be helped, the interest of the nation cannot be overlooked. As is said "Interest re-publicae supreme lex" (The interest of the republic is the Supreme Law). A line has to be drawn somewhere to the policy of caste based reservation, and I draw the line at Science. Science has no caste or religion. In my opinion, therefore, there can be no valid reservation in the field of Science and technology.

10. For making an appointment of a person as a Lecturer in Chemistry (or in Physics, Mathematics or any other scientific subject) or making admissions in Scientific Institutes or Colleges one has to choose the most meritorious candidate, and caste and religion are wholly extraneous and illegal considerations. In my opinion, the reservation policy cannot be extended to the scientific field (which includes medicine, technology and mathematics) For example, when a man goes to a Doctor he does not see the Doctors' caste or religion but he goes to the Doctor who has the best reputation In fact, an incompetent Doctor can endanger public health, just as an incompetent Engineer can endanger public safety by constructing a defective bridge or building which may collapse Similarly, when the Government wants to set up a nuclear reactor it seeks the most distinguished Scientists, and does not seek Scientists of a particular caste or religion. When we launched, the Agni Rocket surely the scientists involved in this great achievement were not chosen because of their caste. In my opinion this country can only progress if it adopts the scientific attitude and scientific thinking. Reservation in teaching posts in Science (including Medicine and Engineering) or Mathematics Faculties or admission in educational institutions in the Scientific field on the basis of religion or caste is wholly arbitrary and against the country's national interest of scientific development. An appointment of a Lecturer (or in other teaching post) in Chemistry, Physics. Mathematics or any other scientific subject can be made on the basis of merit alone, and as such teaching posts in the science and Mathematics Faculty cannot be validly reserved on the basis of caste or religion, and the same principle applies to admissions in educational institutions in the scientific field.

11. The argument in support of the policy of reservation is that it aims at equality. The argument is that since the Scheduled Castes and other backward classes have been oppressed and downtrodden hence compensatory State action is required for the purpose of making people who are factually unequal in their

wealth, education or social environment, equal in specified areas vide Dr. Pradeep Jain and Others Vs. Union of India (UOI) and Others, .

12. The point, however, remains that this desire to make unequals equal cannot go to the extent of subverting the national interest, and hence it cannot be extended to the field of Science and technology. I have already mentioned that we are now standing at a cross road in our nation's long history. We must now either adopt the scientific path or perish. It is a matter of life and death for us. These who have read science know that It permits no compromise. It is a relentless pursuit of objective truth, and must maintain very high standards. To dilute science by the policy of reservation is permitting impermissible compromises in a field which is of paramount importance to our nation's destiny. Those who talk of reservation in the scientific field probably do not know of the advances in modern science achieved by Western nations. They would not be knowing the meaning of quantum mechanics, and the difference between quantum mechanics (as propounded by Heisenberg and Schrodinger) and the quantum theory (as propounded by Max Planck and as explained by Einstein), and the researches of Prof. Stephen Hawking on black holes (see "A brief History of Time"). They may not be knowing of the brilliant discovery by Ramanujan (before whom even the greatest mathematician of the world, Hardy, bowed his head) of the mock theta function, made when he was practically on his death bed at the age of 32 (see "The Man who knew Infinity"). They may never have heard of the Raman effect or the Chandrasekhar limit. They may never have heard of a tensor or the psi function. They possibly do not even know the great discovery of Rutherford who through his famous gold leaf experiment propounded the modern atomic theory, which was subsequently modified by Neils Bohr, Heisenberg, and Schrodinger's equation* They may never have heard of the outstanding research in social science by Morgan, who studied the lives of the American Iroquois Indians whose Seneca tribe had adopted him (see Morgan's "Ancient Society"). It is distressing to note that while Western nations are day by day advancing in science and technology and thus widening the gap between their level of advancement and ours some of our people are insisting on caste based reservations in the scientific field which can only keep us back-ward. One can understand political compulsions, but then everything has a limit, and the limit is crossed when caste or religion based reservations are sought to be made in the field of science or technology.

13. The decision of the Supreme Court in Pradeep Jain's case (supra), it may be noted, dealt with regional reservation and not caste based reservation. Similarly, the decision in Dr. Jagdish Saran and Others Vs. Union of India (UOI), , dealt with institutional reservation and not caste based reservation. The decision in State of Kerala v. T.P. Roshan AIR 1979 SC 767 , dealt with regional reservation. Vatan Mal Vs. Kailash Nath, , dealt with reservation for rural candidates. Nidamarti Maheshkumar Vs. State of Maharashtra and Others, dealt with regional reservation. State of Maharashtra v. Minco N. Kavarana 1989 (2) U.P. LBEC 18 , dealt with reservation of seats for Bombay students. Municipal Corporation of

Greater Bombay and Others Vs. Thukral Anjali Deokumar and Others, dealt with institutional preferences.

14 The above decisions, hence, do not lay down any proposition that there can be a valid caste or religion based reservation in the field of science. Medicine, or Technology. Any reservations in this field whether for admission in educational institutions or for appointments in posts is in my opinion, violative of Article 14 of the constitution of India. In particular, reservation on the basis of caste or religion in teaching posts (at any level, whether University. College, School or any institute) in science (including medicine and technology) or Mathematics subjects are constitutionally invalid and I hereby so declare

15. In my opinion, the reasonability test under Article 14 of the constitution of India has to be taken from the point of view of national progress, and the national progress requires encouragement and development of science and technology. Whatever comes in the path of national progress, and hence of science and technology, has to be declared as arbitrary and unreasonable and hence violative of Article 14 of the constitution of India, and it cannot be saved by Articles 15(4) and 16(4) of the constitution of India.

16. It may be mentioned that the aim of the reservation policy is to do social good. However, reservation on caste basis in the field of science (including medicine and engineering), will not do social good but just the contrary. After all, it is science which can enable us eliminate poverty and ignorance, which are the main social evils in our country today. Reservation on caste basis in the field of science will defeat the very object of the reservation policy viz. to do social good. Such reservation cannot doubt benefit about 1% of the socially and educationally backward classes and scheduled castes, but it will do immense harm to the remaining 99% by damaging the cause of science, It is only by the massive application of science and technology that the country. Including 99% of the socially and educationally backward classes and scheduled castes, can escape from poverty and ignorance.

17. In the circumstances, I am of the opinion that all caste based reservation in the scientific field, whether for admission in educational institutions (including medical and engineering colleges; or appointments in the scientific field are arbitrary and violative of Article 14 of the Constitution of India.

18. In view of the above discussion, reservation of the post of Lecturer in Chemistry on the basis of caste is wholly arbitrary and violative of Article 14 of the Constitution of India The impugned order dated 20-5-1992 (Annexure-9) to the writ petition) is, therefore, illegal and is hereby quashed. The writ petition is allowed, and the Petitioner will be allowed to continue in service as ad hoc Lecturer in Chemistry and paid salary until regular selection by the Commission.