
(1997) 01 SC CK 0149
In the Supreme Court Of India
Case No : Civil Appeal No. 388 Of 1997

P.B. Chowdhary and Another

APPELLANT

Vs

Govt. of A.P. and Others

RESPONDENT

Date of Decision : 15-01-1997

Acts Referred:

Citation : (1997) 11 SCC 241

Hon'ble Judges : A. M. Ahmadii, C.J;S. P. Bharucha, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Special leave granted.

2. The brief facts are that by the decision of this Court in G. S. Venkat Reddy v. Govt. of A. P., (1993) 3 Suppl. SCC 425 this Court in paragraph 15 thereof gave the following directions:

"The candidates who have entered service after passing the SQT shall rank immediately after the regularly appointed candidates who had entered service before the selection of the successful SQT candidates. Next to the SQT candidates will rank those who are governed by this Court's directive in the last paragraph of Diwakar's case AIR 1982 SC 1555. Thereafter, the seniority will be fixed between the candidates covered under GOMs No. 647, the upgraded supervisors and the SC/ST candidates recruited under the Rule 22(e) - Limited recruitment scheme - in the light of this judgment."

3. The direction, therefore, clearly sets out how the seniority will be fixed between candidates belonging to three different groups. The appellants before us contend that they belong to the Diwakar group. Insofar as the directive in the last paragraph of Diwakar's case is concerned it reads as under:-

"In order to do justice between the parties and not to leave the appellants, fresh young engineering graduates, in lurch, we direct that the Commission shall

proceed to finalise the list of selection on the basis of the viva voce tests conducted and marks assigned and forward the same to the Government within two months from today. If the appellants of any one of them fall within the zone of selection, they must be first appointed according to their place in the select list before any outsider is appointed hereafter to the post of the Junior Engineer in any branch of Andhra Pradesh Engineering Service and this must be irrespective of the Department in which post of Junior Engineer is available."

4. Pursuant to this direction given in Diwakar's case (supra) the Public Service Commission finalised the list of selection on the basis of the viva voce test conducted and marks assigned, forwarded the same to the Government. It may here be mentioned that according to counsel none of the appellants in Diwakar's case availed the appointments presumably because they had better opportunities elsewhere. After the Commission forwarded the select list to the Government the latter by G.O.Ms. No. 307 dated 23rd May, 1983 issued certain directions, inter alia, stating that the appellants in Civil Appeal No. 2487 of 1982 and the candidates ranked above them in the Public Service Commission list, who are not eligible for regularisation of their service in terms of G.O.Ms. No. 647 General Administration (Service-A) Department dated 14th September, 1979 should be appointed in the respective zones and departments to which they are selected for appointment in the available vacancies. The further decision was that after absorbing the candidates who ranked above the appellants before the Supreme Court, the candidates who were within the zone of selection in the list furnished by the Andhra Pradesh Public Service Commission and who are ranked below the appellants should be appointed in the existing or future vacancies in any engineering services. It is, thus, clear that by the said Government decision candidates other than the appellants in Diwakar's case were directed to be appointed in the manner set out above. The submission that the direction in the last paragraph of Diwakar's case was limited to the appellants only cannot be accepted for the reason that the Government had approved the list finalised by the Commission by G.O.Ms. No. 307 dated 23rd May, 1983 and appointments had been made in pursuance thereof. This was taken note of in Venkat Reddy's case (supra) and the summary, therefore, was drawn up after keeping that fact in mind. So far as G.O.Ms. No. 607 dated 14th September, 1979 is concerned the same had been upheld by this Court and those covered under the said GOMs have also been assigned a place in the seniority as per the summary in Venkat Reddy's case. The position has, therefore, been made quite clear in regard to the fixation of seniority of candidate belonging to the three categories referred to in the summary of Venkat Reddy's case.

5. The submission that candidates such as the respondents 7 to 9 would have to slide down in seniority if the decision in Venkat Reddy's case (supra) is so applied although they too were selected by the Public Service Commission, cannot be entertained, for that would be seeking a review of the decision in Venkat Reddy's case which has since become final and had been applied. The ratio of that decision must apply to all those covered under those categories and

it is no argument to say that respondents 7 to 9 were not parties to that petition. We are, therefore, clearly of the view that the decision in Venkat Reddy's case must be applied to all those falling within the three categories set out in the summary of that case. That is what this Court also did in the case of S. Chinnappa Reddy v. State of Andhra Pradesh (Civil Appeal No. 1809-12/96) (reported in JT 1996 (1) SC 350). In that case the direct recruit selected in 1978 were appointed and given seniority as directed in Diwakar's case (supra) as understood by the State Government's G.O.Ms. No. 307 dated 23rd May, 1983.

6. In the result, we allow this appeal, set aside the order of the Tribunal and remit the matter back to the Tribunal for disposal in the light of what we have stated above. The applicants of I.A. No. 2/95 will be at liberty to appear before the Tribunal to place their point of view. The Tribunal should dispose of the matter expeditiously, preferably within three months from today. There will be no order as to costs.