

(1996) 11 SC CK 0214

In the Supreme Court Of India

Case No : Civil Appeal No. 15338 Of 1996

Union of India (UOI) and Others

APPELLANT

Vs

Hari Singh Barkodia and Another

RESPONDENT

Date of Decision : 26-11-1996

Acts Referred:

Citation : (1998) 9 JT 421 : (1997) 11 SCC 334

Hon'ble Judges : A. M. Ahmadii, C.J; Sujata V. Manohar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Special leave granted.

2. The impugned order of the tribunal suffers from an infirmity which goes to the root of the matter. The respondent Hari Singh Barkodia belongs to the Scheduled Caste. His grievance is that when a Scheduled Tribe candidate was not available, the post reserved for Scheduled Tribe should have been converted to one reserved for Scheduled Caste and he should have been appointed to the post in question rather than appointing a person belonging to the general category. Now, according to the relevant rule, if a Scheduled Tribe reserved post cannot be filled up for want of availability of candidates then in the third year that post would be converted as a post reserved for Scheduled Caste and a candidate belonging to that caste would be entitled to be appointed thereto. Therefore, even if we were to assume that the general category candidate should not have been appointed, the respondent had no right to be appointed on the ground that the post was reserved for Scheduled Caste candidate since the time for conversion of the post under the rules to Scheduled Caste had not arrived. That is the reason why the DPC did not consider his name for appointment by promotion to the said post. The roster point for the year 1983 had to be carried forward during the relevant recruitment order (sic year) of 1985. Since no Scheduled Tribe candidate was available for recruitment in the year 1985 the general category employee was promoted to fill up the vacancy. The respondent, a Scheduled Caste candidate,

was not granted promotion by the DPC as at that relevant point of time he was not eligible since the time for conversion of the post from Scheduled Tribe to Scheduled Caste had not arisen. That being the position, the tribunal was in error in directing that the case of the respondent ought to have been considered by the DPC. We are unable to agree with this view of the tribunal.

3. We, therefore, allow this appeal, set aside the impugned order of the Tribunal and direct that the original application shall stand dismissed. No order as to costs.