
(2014) 08 P&H CK 0314

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. Nos. 12044 and 12732 of 2014

Yashvika

APPELLANT

Vs

Registrar, Panjab University

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 15(5), 16, 16(4)

Citation : (2014) 4 SCT 504

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : G.S. Ghuman, Advocate for the Appellant; Shekhar Verma, Aseem Aggarwal, Advocates, Gurminder Singh, Senior Advocate and Yagyadeep, Advocate for the Respondent

Judgement

K. Kannan, J.—Both the writ petitions are connected and they raise the same issue. The petitioners are aggrieved at the condition in the prospectus that provides for distribution of seats in such a manner that the reservation for all-India quota is 15% and for the Scheduled Caste it is 15% and for a person with physical disability 3% and the rest of vacancies shall be for general category. The petitioner claims to be son of ex-Serviceman and his contention is that the reservation policy as adopted by the State of Punjab and Haryana must be followed in as much as the reservation policy in the said States admits of 5% reservation for ex-serviceman. The response from the Medical Council of India is that it lays down standards of education and the extent of reservation and allocation of seats will be done by the respective States. The Chandigarh Administration has filed a reply that they had a policy of reservation to accommodate claims for ex-servicemen as well till the year 1995 but after the Medical Council of India conducted an inspection in March 1994 on the facilities available for teaching, it had observed that the reservation of seats for admission to MBBS Course for persons other than SC/ST was not as per Council's recommendations. When it directed that this deviance should be rectified, the reservation policy for ex-serviceman was dropped and the reservation as it now

stands is only for Scheduled Caste and Physically Handicapped persons. The proceedings regarding reservation policy issued on 19.03.1998 by the Department of Medical Education and Research would show that there had been fairly a large number of categories who were accommodated for reservation, such as wards of defence personnel 5%, children of freedom fighters 2%, sports persons 2%, dependent of victims of terrorist incidents 2%. All these categories of reservation have now been abrogated.

2. The case can only be examined to see whether there is anything constitutionally impermissible about restricting the reservation only for Scheduled Caste and Physically Handicapped persons. It must be remembered that right of reservation itself is not constitutionally enforceable other than what is permitted under Articles 14, 15 and 16 of the Constitution. Indeed, the word "reservation" in Article 16(4) is not there in Article 15. The word reservation as a subject of public appointment is different from the word "reservation" as a general concept (see *M. Nagraj v. Union* 2007(4) S.C.T. 664 : (2006) 8 SCC 2127). Even for applicability of reservation in public employments, the Supreme Court held in *Ajit Singh (III) v. Union* (2001) 1 SCC 430 that Article 16(4) itself neither imposes any constitutional duty nor confers any fundamental right for reservation. By the same token of logic, there is no fundamental right to demand reservation for any category than what the administration specifically makes possible in the field of education. The State has a constitutional mandate for providing for special provisions for the advancing of any socially and educationally backward class of citizens or for the Scheduled Caste and Scheduled Tribe in so far as such special provisions relate to their admission to educational institutions, as per Article 15(5). Reservation brought for physically handicapped comes through a specific enactment of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. There have been periodical notifications issued by various States prescribing reservation not exceeding 3% in this category.

3. Every reservation to any other class of persons other than what is mentioned in Article 15 or what is set out under the Disabilities Act have come through various administrative notifications and policies issued by the Government from time to time. They serve several purposes depending on the local needs and exigencies of time. A reservation that was once possible for admission to persons who were victims of terrorist's crime was perhaps at some point of time relevant for Punjab when it was going through tougher times. Of what was possible for Punjab might not be applicable elsewhere in any other State. This is only to bring home the point that a reservation granted to a particular category may not be necessary for all times and for all places. As much as there will be a clamour for reservation from persons to claim outside the arena of merit, there is bound to be a serious impact in public perception that we are a resilient society to suffer any dent on merit and allow for several vested interests to take over. Every new category of reservation takes a slice from the limited pool of resources of aspiring, bright and meritorious candidates. We must take the reservations

secured through the constitutional provisions and some enactments that provide for reservation as the maximum beyond which the clamour for more shall abate. We have students setting themselves afire on roads only on the heart burns that reservation issues caused. Some of the youth got the message wrong. Reservation as a measure of social justice is a constitutional mandate. We will limit them to where they deserve; what the Constitution zealously protects for to the socially and economically deprived. Let us embrace concept of social justice with passion. Thus far and no further. If the perception of the administration on the recommendations of the Medical Council of India at some point of time impelled them to withdraw reservation to all persons other than SC and physically handicapped and that has stood on for more than a decade, I shall not allow for a feverish plea that what was closed to them some years back must again be reopened. Opening new categories of reservation is opening wounds of what are healing in the society. The writ petitions are dismissed.