

Shri Tourang Bam Ibotombi

Vs

The Union of India Others

Writ Petition No. 375 of 1970

(K. K. Mathew, P. K. Goswami, N. L. Untwalia JJ)

19.02.1975

JUDGMENT

UNTWALIA, J. -

1. The post of Director of Education, Manipur fell vacant on December 7, 1969 due to the sudden death of the incumbent of that post. According to the Recruitment Rules for Class I and Class II posts of Government of Manipur framed on April 2, 1969 the vacancy could be filled up by promotion of the officers already in service or by transfer on deputation, failing either by direct recruitment. The petitioner in this writ application under Article 32 of the Constitution of India at the relevant time was Inspector of Schools, Department of Education, Government of Manipur. The third respondent was the Principal, G. P. Women's College, Imphal. By order dated May 25, 1970, a copy of which is Annexure 'D' to the writ application. The Lt. Governor of Manipur, respondent No. 2 appointed by promotion the third respondent to the post of Director of Education. The petitioner obtained a rule from this Court against the respondents (also impleading Union of India as respondent No. 1) to show cause why the order dated May 25, 1970 be not quashed and why respondents Nos. 1 and 2 be not directed to consider the case of the petitioner according to the relevant Recruitment Rules.

2. Cause has been shown on behalf of the respondents and the counter-affidavit sworn by the Under-Secretary, Appointments and Service Department to the Government of Manipur has also been filed.

3. The grievance of the petitioner in this case is that according to the combined seniority list Annexure 'B' he was senior to respondent No. 3, according to the Rules dated April 22, 1969 - Annexure 'A' respondent No. 3 was not qualified to be appointed by promotion to the post of Director of Education, Rules were amended mala fide and according to the amended Rules - Annexure 'C' the essential requirement of the candidate being the holder of a degree or diploma in education was relaxed, and thereafter respondent No. 3 was appointed ignoring the claim of the petitioner.

4. According to the Rules contained in Annexure 'A' the requisite qualifications applicable in the case of a direct recruit including the one that the candidate must be a holder of a degree or diploma in education applied in the case of promotion also. Respondent No. 3 fulfilled other educational qualifications but he was not a holder of a degree or diploma in education. The Rules were amended in consultation with the Union Public Service Commissioner and came into effect on April 20, 1970. The requirement of the educational qualification in the case of a direct recruit that he should possess a degree or diploma in education was relaxed and made only a desirable one in the case of a promotee. It would appear from the counter of the respondents that difficulties were felt in the

matter of promotion to the posts of Director, Education insisting on the requisite condition of a candidate being a holder of a degree or diploma in education and consequently a reference was made to the Union Public Service Commission which approved the required amendment in the Rules in their letter dated April 8, 1970. The Rules were accordingly amended on April 20, 1970 in supersession of the earlier Rules dated April 22, 1969. The Departmental Promotion Committee presided over by a Member of the Union Public Service Commission with two other members, namely, the Chief Secretary and the Secretary, Education of the Manipur Administration considered the cases of all the candidates then available from the feeder posts. Only two were found to be qualified namely the petitioner and respondent No. 3. The Departmental Promotion Committee concluded its deliberations for the selection to the posts of Director of Education on April 18, 1970 in accordance with the amendments to the Rules which had been approved by the Union Public Service Commission. After examining the record of both the candidates it found the petitioner "not yet fit" whereas respondent No. 3 was categorised as "good". The recommendation of the Departmental Promotion Committee was sent to the Union Public Service Commission on whose approval the impugned order appointing respondent No. 3 was made by respondent No. 2. It is difficult to accept the contention put forward on behalf of the petitioner that the amendment of the Rule was made fide merely to favour respondent No. 3. No facts are alleged in the petition to show that any person in the Departmental Promotion Committee or the Union Public Service Commission or the Manipur Administration had any animus against the petitioner or an unduly favourable disposition towards respondent No. 3. There is no basis for the bald allegation of the amendment of the Rules having been made mala fide. On the facts stated in the counter it is clear that it was not so. The appointment of respondent No. 3 does not suffer from any infirmity in the eye of law.

5. For the reasons stated above we find no substance in this writ application. It is accordingly dismissed and the rule is discharged. There would be no order as to costs.

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