

Dr. M. C. Bindal and Others

Vs

R. S. Singh and Others

Dr. M. C. Bindal

Vs

U. P. Public Service Commission, Allahabad and Another

Sadhan Kumar Majumdar

Vs

State of U. P. and Others

And

State of Uttar Pradesh

Vs

Ram Chander Singh and Others

Civil Appeal No. 3797 & 3798 of 1984 with Writ Petition No. 756 of 1986 etc.

(A. P. Sen, B. C. Ray JJ)

19.12.1986

ORDER

A. P. SEN, J. :-

1. These appeals and the connected writ petition raise common questions and therefore they are disposed of by this common order. We heard learned counsel for the parties at considerable length and they with their perspicuity, much leaning and resource presented their respective points of view. After hearing the arguments letting over several days, we reserved the judgment. We do not think it is desirable in the public interest to defer the judgment any longer as the post of Food and Drugs Controller is a sensitive one and the incumbent holding the post discharges many important functions and duties. We have therefore decided to deliver this short order indicating the judgment. The reasons therefore shall follow.

2. Having given the matter our anxious consideration and after considering the arguments of the learned counsel in depth, we have formed the considered opinion that Dr. M. C. Bindal lacked the essential qualifications for appointments to the post of Food and Drugs Controller, State of Uttar Pradesh as prescribed in the advertisement issued by the Commission dated September 30, 1981 inviting applications for appointment to the post. We are also satisfied that the Commission was

justified in making an investigation on its own pursuant to the direction contained in the penultimate paragraph of the judgment delivered by the High Court and in withdrawing the candidature of Dr. M. C. Bindal on the ground that he did not possess the minimum qualifications as prescribed. We have also come to the conclusion that in the facts and circumstances of the case, the decision of the Council of Ministers dated July 22, 1986 according its approval to the appointment of Dr. M. C. Bindal as the Controller of Food and Drugs, Uttar Pradesh on a regular basis, despite the advice of the Commission to the contrary, namely that he did not possess the requisite five year's experience in drugs testing etc. and therefore was not eligible for appointment to that post, was not a bona fide exercise of power. We accordingly quash the impugned order passed by the State Government dated April 6, 1983 for the appointment of Dr. M. C Bindal to be the Food and Drugs Controller, State of Uttar Pradesh as also the subsequent order of the government dated July 22, 1986 recording its ratification of the appointment of Dr. Bindal to the post of Food and Drugs Controller. We direct that the State Government shall forthwith take necessary steps or appointment of a suitable candidate fully qualified to hold the post of Food and Drugs Controller, through the U. P. Public Service Commission, in a accordance with law. We further direct that the State Government shall complete the process of appointment within three months from today. The State Government shall in the meanwhile appoint a member belonging to the Indian Administrative Service to hold the post of Food and Drugs Controller till a regular appointment to the said post is made in consultation with the Public Service Commission.

3. Accordingly, Civil Appeal No. (sic) of 1986 preferred by Dr. S. K. Majumdar is allowed while Civil Appeal No. 3797 of 1984 and Writ Petition No. 756 of 1986 filed by Dr. M. C. Bindal and Civil Appeal No. 3798 of 1984 filed by the State of Uttar Pradesh are dismissed, with costs.

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