

Ganga Singh

Vs

Commissioner of Police and Another

Writ Petition (Civil) No. 1099 of 1986

(O. Chinnappa Reddy, G. L. Oza JJ)

13.01.1987

JUDGMENT

OZA, J. -

1. This petition has been filed by the petitioner alleging that the petitioner succeeded in the examination for promotion to the post of Sub-Inspector of Delhi Police held in 1982 as a departmental candidate and he was placed at No. 12 in the merit list. Petitioner is a scheduled caste candidate and one another candidate Mahavir Singh who also appeared in the same examination was placed at No. 13 in the merit list. Mahavir Singh was also a scheduled caste candidate. There was reservation for this post and it is not disputed that looking to the number of posts available for scheduled castes and scheduled tribes the petitioner should have been appointed as a Sub-Inspector in Delhi Police. But because of the decision of the Delhi High Court in Raj Kumar case (Raj Kumar Singh v. Union of India, decided by Delhi High Court, overruled in (1986) 1 SCC 668) which held that this reservation was not justified the petitioner could not be appointed. Petitioner therefore filed a petition in Delhi High Court claiming appointment in the general category on the basis of his position in the merit list but as he has crossed 30 years on the date of the application he could not be appointed in the general category and therefore his petition was dismissed and SLP also was dismissed.

2. Mahavir Singh filed a petition before the Delhi High Court claiming to be appointed as a scheduled caste candidate in the reserved seat. This petition was dismissed by the Delhi High Court and he therefore came to this Court by a special leave petition which was granted and in Mahavir Singh v. Staff Selection Committee ((1986) 1 SCC 668 : 1986 SCC (L&S) 192) this Court allowed the appeal setting aside the judgment of the Delhi High Court and observed that Raj Kumar Case (Raj Kumar Singh v. Union of India, decided by Delhi High Court, overruled in (1986) 1 SCC 668) does not lay down good law and it was directed that he be given the benefit of reservation on the basis of his position in the merit list.

3. It is alleged in this petition that consequently Mahavir Singh has been appointed and it is because of this that the present petitioner filed the present petition.

4. The facts are not disputed. The only contention by the respondent in this petition is that as the petitioner on the date of application had crossed the age of 30 years even as a scheduled caste candidate he could not be appointed as there was no relaxation of age for scheduled caste candidates. Learned counsel for the petitioner drew our attention to instructions issued in July 1976 wherein it was specifically directed that in case of scheduled caste and scheduled tribe candidates the age limit will be relaxable up to 35 years. After seeing these departmental instructions even the

learned counsel appearing for the respondent was not in a position to challenge these instructions. It is because of this that his application was not rejected. It is also not disputed that if the age could be relaxed up to 35 years the petitioner is entitled to be appointed on the basis of reservation for scheduled caste and scheduled tribe candidates. Under these circumstances therefore the petition deserves to succeed. It is rather unfortunate that a scheduled caste candidate who had secured a good position in merits and was placed at No. 12 still he could not be appointed for all these years and ultimately had to come to this Court for redress of his grievance. Petition is therefore allowed with costs of Rs. 5000 and it is directed that the petitioner will be appointed as a Sub-Inspector of Police forthwith.

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