

SUREME COURT OF INDIA

Union of India (Uoi)

Vs.

Ishwar Singh Khatri

(A Ahmadi and K J Shetty JJ.)

04.08.1989

ORDER

1. In the year 1982-83, Delhi Administration notified 654 vacancies of trained graduate teachers and asked the Employment Exchange to sponsor names of suitable candidates for appointment. The Employment Exchange during the period up to June 1984 sponsored as many as 4000 candidates. The Staff Selection Board headed by the Director/Additional Director of Education, Delhi Administration after interviewing the candidates prepared panels containing an aggregate of 1492 names of selected candidates. The panels were displayed on the notice board stating specifically that "the appointment will be in the order of merit, that appointment will be made from the select list till the last candidate is appointed". It was also stated in the minutes of the meetings of the Staff Selection Board that "the life of the panels of selected candidates will be valid for indefinite period". In some minutes it is stated, that "the panel of selected candidates will remain valid till all the candidates are offered appointments".

2. Delhi Administration in the first instance appointed 527 candidates out of the selected panels and later on they appointed 127 more candidates. It is said that some more candidates were also appointed during the pendency of this proceedings. The remaining selected candidates waited in vain only to see an advertisement by the Administration inviting fresh candidates for further appointments. At that stage, they moved the High Court with writ petition under Article 226, interalia, contending that they have a right to be appointed till the panels are exhausted. The writ petition stood transferred to the Central Administrative Tribunal which upon consideration of the matter allowed the claim of selected candidates with the following directions:

The petition is allowed and the letter No. F.20-3(a)/85-Coord dated March 5, 1985 issued by the Directorate of Education insofar as it restricts the operation of panels of selected candidates to the extent of the actual notified vacancies as is hereby quashed with the direction that all the candidates included in the panels of selected candidates prepared till June 1984 for the posts of Trained Graduate Teachers, shall be appointed against the existing or future vacancies and that the persons in the said panels shall have precedence in appointment over persons included in any subsequent panel and not so far appointed and further that no fresh panel for the appointment on the posts of Trained Graduate Teachers in the categories covered by the said panels, shall be prepared until the said panels are exhausted and offers for appointment have been made to all persons included in the said

panels.

3. It is against this order of the Tribunal, Delhi Administration by obtaining leave has appealed to this Court.

4. Mr. Subba Rao for the appellant urged that the candidates included in the panels prepared by the Selection Board as far back in June 1984 cannot be held to have the right to appointment against vacancies arising subsequent to preparation of the panels. According to counsel, if that right is conceded it would be arbitrary and contrary to Article 16(1) of the Constitution which guarantees opportunity for all citizens in matters of employment or appointment to any office under the State. There is little doubt about this proposition. The selected candidates ordinarily will have a right to appointment against vacancies notified or available till the select list is prepared. They in any event cannot have a right against future vacancies.

5. But in the present case, it cannot be said that the anticipated vacancies arising up to the preparation of panels were not taken into consideration by the Selection Board while preparing the panels for recruitment. The Tribunal after examining the entire matter has concluded that the Selection Board headed by the Director of Education or the Additional Director on a few occasions was aware of the number of vacancies then available for finalisation of the panels of selected candidates, the Tribunal observed:

We do not think that there can be a person other than the Director of Education himself who would have been in a better position to know the number of existing and anticipated vacancies of TGT required to be filled up in the Education Department. It does not stand to reason that if the number of actual vacancies was only 654 as notified to the Employment Exchange, the Selection Board headed by the Director/Addl. Director of Education would have prepared unduly large or inflated panels of selected candidates numbering 1492. If the number of actual and anticipated vacancies was disproportionately less than the size of the panels, the Selection Board could also not have recorded in the minutes as follows:

The panel of the selected candidates will be valid till all the candidates are offered appointments.

6. In fact we wanted to ascertain the actual number of vacancies that existed as on the preparation of panels of the selected candidates, we requested Mr. Subba Rao, counsel for Delhi Administration to find out and inform us about the actual fact. Counsel although took time to verify, finally pleaded his inability to furnish the required particulars.

7. Therefore, in the premises we have to conclude that the Selection Board prepared the panels containing 1492 candidates as against the then available vacancies. In view of this conclusion, it goes without saying that the selected candidates have a right to get appointment. We, therefore, see no reason to disturb the judgment of the Tribunal.

8. It is made clear that the Administration shall fill up all the existing vacancies within one month from today till the panels in question are exhausted. With this direction, the appeal is disposed of, In the circumstances of the case, there will be no order as to costs.

9. Before parting with the case we must notice one other aspect. During the pendency of the proceedings before the Tribunal and also in this Court, Delhi Administration appears to have

appointed some fresh candidates. We do not want to disturb their appointments nor it is proper for Delhi Administration to disturb them. Needless, however, to state that the candidates in the panels when appointed pursuant to our order must get their seniority as per their rankings in the select panels over the persons appointed in the interregnum.

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