

A. P. Public Service Commission, Hyderabad and Another

Vs

B. Sarat Chandra and Others

Civil Appeal No. 1147 of 1990

(K. Jagannatha Shetty, R. M. Sahai JJ)

10.04.1990

JUDGMENT

K. JAGANNATHAN SHETTY, J. -

1. This is an appeal by the A. P. Public Service Commission against the decision of the A.P. Administrative Tribunal dated September 22, 1989. The appeal raised a question as to scope of Rule 5 of the A.P. Police Service Rules, 1966.
2. The facts are not in dispute and may be stated as follows : The Public Service Commission issued an Advertisement/Notification No. 18/1983 inviting applications for selection in a Combined Competitive Examination to be held in November 1983 at Anantapur, Guntur, Hyderabad, Kakinada, Tirupathi, Visakhapatnam and Warangal Centres for recruitment to the post included in Grade I Services. The notification was published in the gazette dated 25th August, 1983. The post of Deputy Superintendent of Police was one of the post for which applications were invited. The respondents applied to that post as well as to other posts. The minimum age prescribed for selection to the post of Deputy Superintendent of Police was 21 years as on 1st July, 1983, as against 18 years for other posts. The respondent did not complete 21 years as on 1st July, 1983. He was short by 19 days and his case, therefore, was not considered for appointment to post of Deputy Superintendent of Police. He was, however, considered to other posts since it was a combined selection for Grade I service.
3. In 1984, the Public Service Commission conducted preliminary examination for the eligible candidates. In 1985, final examination was conducted. In 1986, the candidates were called for interview. On 27th March, 1987, the list of selected candidates was prepared for appointment to different categories of posts. The respondent was selected as Deputy Registrar of Co-operative Societies.
4. On April 15, 1989 i.e. about two years after the selection, the respondent approached the Andhra Pradesh Administrative Tribunal contending inter alia that the date for attaining the minimum age prescribed under the notification was contrary to Rule 5 of the A.P. Police Service Rules, 1966. He claimed that such date ought to be the date of preparation of the list of selected candidates and not any date anterior to it. He accordingly sought a direction to the Public Service Commission to select him to the post of Deputy Superintendent of Police since he had satisfied the required minimum age of 21 years as on the date of the select list. The Tribunal has accepted that contention and issued a direction to the State Government to create an additional post as a special case and appoint the respondent as Deputy Superintendent of Police, if necessary by reducing the number of posts for recruitment for the next year.

5. The decision of the Tribunal has been challenged in this appeal by the Public Service Commission since the view expressed therein is likely to affect the appointment of a large number of candidates.

6. There is no dispute that the eligibility of 3 candidates as to age for appointment as Deputy Superintendent of Police should be determined according to Rule 5 of the A.P. Police Service Rules. It is, therefore, necessary to look first at that Rule. Rule 5 so far as in relevant provides :

"5. Qualifications. - (A) No person shall be eligible for appointment as a Deputy Superintendent of Police, Category 2 by direct recruitment unless he -

(i) has completed the age of 21 years and had not completed the age of 26 years on the first day of July of the year in which the selection is made.

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7. The Rule prescribes the minimum as well as the maximum age for appointment as Deputy Superintendent of Police. Minimum age is 21 years. The candidate must have completed 21 years on the first day of July of the year in which the selection is made. He should not have also completed 26 years as on that day. The Tribunal while construing this Rule has observed :

"According to the procedure the process of selection begins with the issue of the advertisement and culminates in forwarding the list to the appointing authority. The essence of the process lies in the preparation of the list. A selection can be said to have been done only when the list is prepared. In this view the eligibility of the candidates as to age has to be determined at this stage".

If the word 'selection' is understood in a sense meaning thereby only the final act of selecting candidates with preparation of the list for appointment, then the conclusion of the Tribunal may not be unjustified. But round phrases cannot give square answers. Before accepting that meaning, we must see the consequences, anomalies and uncertainties that it may lead to. The Tribunal in fact does not dispute that the process of selection begins with the issuance of advertisement and ends with the preparation of select list for appointment. Indeed, it consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment. Rule 3 of the Rules of Procedure of the Public Service Commission is also indicative of all these steps. When such are the different steps in the process of selection, the minimum or maximum age for suitability of a candidate for appointment cannot be allowed to depend upon any fluctuating or uncertain date. If the final stage of selection is delayed and more often it happens for various reasons, the candidates who are eligible on the date of application may find themselves eliminated at the final stage for no fault of theirs. The date to attain the minimum or maximum age must, therefore, be specific, and determinate as on a particular date for candidates to apply and for recruiting agency to scrutinise applications. It would be, therefore, unreasonable to construe the word selection only as the factum of preparation of the select list. Nothing so bad would have been intended by the Rule making authority.

8. The appeal, therefore, is allowed setting aside the order of the Tribunal.

9. In the circumstances of the case, however, we make no order as to costs.

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