

Government of A. P. and Another

Vs

P. Ravinder and Others

Civil Appeal Nos. 1694-1709 of 1991

(CJI Ranganath Misra, Kuldip Singh JJ)

13.08.1991

ORDER

1. This is an appeal by the State Government of Andhra Pradesh by special leave. Challenge is to the order of the State Administrative Tribunal directing the benefit of the Government Order of November 18, 1981 to be extended to selection of the Sub-Inspectors of Police which is done through the State Level Recruitment Board. The government order which has been extracted in the order of the Tribunal reads thus :

"Notwithstanding anything in the Andhra Pradesh State and Subordinate Service Rules or the Special Rules, candidates seeking appointment to all the non-gazetted posts of all services, and seeking eligibility in general educational test who have obtained the basis educational qualifications prescribed for direct recruitment eligibility for promotion in the special rules governing such posts, through Telugu medium, shall be given weightage in the matter of selection to such posts by awarding them 5 per cent of the total aggregate maximum marks of the relevant competitive examination held by the Andhra Pradesh Public Service Commission for recruitment acquiring eligibility to such posts."

"Having regard to the avowed policy of the government to introduce Telugu progressively in the State in the coming years and as Telugu has been introduced as official language at Directorate level and also in the lower courts in certain districts of the State and so as to given preference to candidates who have obtained the basic educational qualification through the medium of Telugu, Government have after careful examination decided in consultation with the Andhra Pradesh Public Service Commissioner that such candidates to give weightage of 5 per cent of the total aggregate maximum marks of all the competitive examinations of the Andhra Pradesh Public Service Commissioner for recruitment to all the non-gazetted posts of all services."

There is no dispute that the order in its own terms applies to selection carried on through the State Public Service Commission; nor is there any dispute that the selection of Sub-Inspectors for the relevant period was being carried on by a body other than the State Public Service Commission.

2. The Tribunal observed as follows :

"We cannot record the rule too literally and defeat the object and purpose with which it has been made. If the object and purpose are kept in view, then we have no

hesitation in holding that it applies to all selections irrespective of the body that makes selections in the State. We see no merit in the literal construction suggested by Sri Sagar."

3. We are told that the validity of the government notification is under challenge on the ground that the government have no authority to make such a direction and that challenge is in an independent petition pending disposal before this Court. Since this petition is not one challenging the notification but seeking its extension to areas not covered by the notification in terms, disposal of this petition has not bearing on the petition which challenges the notification.

4. The State Government is the authority to take a policy decision. Whether the decision is tenable or not in law, as we have just pointed out, is not to be decided here. But since government in their wisdom have specifically confined the application of the notification to recruitment through the State Public Service Commission, we have not been able to appreciate the decision of the Tribunal that it was also available to be extended to selection through bodies other than the State Public Service Commission.

5. Mr Ramamurti appearing in support of the respondents' cause has pointed out that if the government notification is confined to selection through the State Public Service Commission, the government notification would be hit by Article 14 of the Constitution. Therefore, according to Mr Ramamurti, it was open to the Tribunal to read down the requirement by saying that the benefit of the notification would be applicable to all categories of selection.

6. We have not been able to agree with Mr Ramamurti that when the notification is specific and is intended to apply to a specified group of cases for selection, it would be open to the Tribunal to extent its application beyond what has been clearly specified. It is one matter to say that the notification applied in limited way may be hit by law; it is another to say that contrary to the restriction imposed, the Tribunal would allow the notification to have general application. We are inclined to agree with Mr Madhava Reddy for the State that the Tribunal exceeded its jurisdiction in lifting the restriction imposed by the government in the matter of benefit of 5 per cent of total aggregate marks to those candidates who wrote their papers the Telugu language. The appeal is allowed and the order of the Tribunal stands vacated. No costs.

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