

Bishan Dass Bagha

Vs

Govt. of Punjab and others

Writ Petn. No. 4025 of 1981

(L. M. Sharma, M. M. Punchhi, Yogeshwar Dayal JJ)

04.02.1992

JUDGEMENT

SHARMA, J.:-

1. This writ petition was filed in 1981 for issuing directions to the respondents i.e. the State of Punjab, the Secretary to the Government of Punjab and the Chief Engineer, Punjab Public Works-Department, Health Branch to follow the relevant rules including those dealing with reservation policy of the Government in making promotions from the posts of Public Health Sectional Officers as Sub-Divisional Engineers and accordingly directing them to pass orders in favour of the petitioner. The writ petition was so drafted as to suggest violation of the reservation policy, although the details included were absolutely vague and the prayer too general. However in view of the questions which were formulated, the writ petition was entertained and accordingly Rule Nisi was issued. After service of notice, various counter-affidavits and other affidavits were filed in the case from time to time and it appears that the controversy between the parties shifted to what happened after the filing of the writ petition. Many interlocutory applications were also filed and certain interim orders were issued when steps were taken in relation to promotions. More petitions were filed later alleging violation of the interim orders of this Court with prayers for initiating proceeding for contempt of Court. However, when the case was taken up for hearing no pointed reference has been made to these applications so as to invite decision on them.

2. We have heard Mr. Sachar, the learned advocate for the petitioner, at some length but we do not consider it necessary to deal with his argument in detail because the respective stand of the parties, as finally emerging from the numerous applications and affidavits filed during the pendency of this writ petition, is dependent on the later developments. Admittedly the petitioner was promoted as Sub-Divisional Engineer on ad hoc basis in 1982 and further steps could not be taken in the department on account of interim orders which were passed by this Court at the instance of the petitioner. It has been contended by Mr. Sachar that this Court should direct the respondent authorities to regularise the service of the petitioner with effect from 1982 itself by promoting him on seniority basis and if that is done the petitioner's grievance will stand satisfied. From the affidavits filed by the State authorities as also on behalf of the intervenor, it appears that many other questions have to be considered for deciding the claim of the petitioner and these questions involve investigation of many facts and examination of the rules, departmental instructions and other relevant materials. It is not practicable for this Court to engage in this exercise which should be taken up with notice not only to the parties before this Court in the present case but many other persons interested in the issues. The different points of view which may be relevant in this regard have to be taken into account and this should be done by the State in the first instance in the presence of all the parties who may be affected. Mr. Sachar contended that the attitude of the State

and its officers is already indicated in the counter-affidavits and the petitioner, therefore, cannot hope for any relief at their hands. Assuming that to be so, still in the present circumstances the State must be called upon to express its opinion on the various controversies after taking into consideration the cases of all the parties concerned including the petitioner. And if the petitioner is ultimately not satisfied he must first move the High Court under Article 226 before approaching this Court, as an application under Article 32 does not appear to be an appropriate remedy in the facts and circumstances of the case.

3. We, therefore, dismiss this writ petition with the observation that the petitioner as also any other person interested in the present matter may make formal application before the State Government within four weeks from today setting out their claims and the State Government after issuing notice to all other persons who may be concerned, pass an order disposing of all the claims and counter claims as expeditiously as may be possible. It is regrettable that on account of the pendency of the present application and the interim orders passed by this Court the matter has remained pending for more than a decade but the main responsibility for the delay is on the petitioner himself who has been coming to this Court with a chain of interim petitions from time to time. However, it is highly desirable that the matter is now closed as expeditiously as may be possible.

4. There will be no order as to costs. Petition dismissed.

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