

State of Karnataka and another

Vs

K.B. Urushabendra Kumar and others

Civil Appeal No. 2647 of 1991

(M.M. Punchhi, K. Jayachandra Reddy JJ)

10.03.1992

JUDGMENT

1. This appeal by special leave is directed against an order dated 22-8-1990 passed by the Karnataka Administrative Tribunal, Bangalore in Application No. 2781 of 1991.

2. It appears that by an advertisement dated August 13, 1987, applications were invited by the State of Karnataka for appointment of Sericulture Extension Officers of a given number. 2 posts were shown reserved for members of the backward classes-Group 'D'. Regarding one post there is no dispute. Regarding the other there arose dispute between respondents 1 and 2. It appears that these respondents on the basis that they were members of the backward classes of the kind applied for the post and rubbed shoulders before the Karnataka Public Service Commission. The Commission rejected the candidature of respondent No. 1 on the basis that he did not fulfil the income criteria inasmuch as his natural family had income above Rs. 10,000/- per annum making him ineligible even though his adoptive family had income less than Rs. 10,000/- per annum. The adoption of respondent No. 1 as such was never disputed. The Commission on rejecting the candidature of respondent No. 1 in the backward class category treated him as a candidate in general category and did not show him in the order of merit for appointment in the later category. As a consequence respondent No. 2 was selected and recommended to be appointed on that basis. The Government accordingly appointed him somewhere in the year 1989 and he has continued in the post thereafter.

3. Respondent No. 1 challenged the view of the Commission in rejecting his candidature before the Administrative Tribunal, Bangalore. The Tribunal took the view that since adoption was valid evidenced as it was by a registered deed of the year 1979, there had been severance of relationship of respondent No. 1 with his natural family and consequently he stood uprooted from that family and transplanted in his adoptive family whose income alone could be taken into account. Admittedly respondent No. 1 was a member of the backward class group 'D' by natural birth also. His transplantation in his adoptive family only altered the criteria of family income and not his status as such. In this situation the Tribunal allowed the petition of respondent No. 1 and remitted the case back to the Commission directing it to proceed to examine the claim of respondent No. 1 for selection to the post in question.

4. We are told at the bar that the Commission with the time stipulated by the Tribunal's order took a decision in favour of respondent No. 1 and recommended him for appointment to the post. The post being single, the natural consequence would be that respondent No. 2 would be displaced. We are told at the Bar by Mr. Bhat, learned counsel appearing for respondent No. 2 that he is likely to be kicked out of his service any moment. It is for this reason that he has supported the States plea that the view of the Commission to accept the income of the adoptive family of respondent No. 1 is

questionable.

5. Having heard learned counsel for the parties on the subject and having regard to the facts and circumstances of this case, we take the view that the Tribunal was not in any way wrong in directing the Commission to examine the claim of respondent No. 1 afresh on having taken the view that the income of the adoptive family would govern the status of respondent No. 1. It appears to us that when respondent No. 1 was taken in adoption in his adoptive family in the year 1979 he could not have visualized or anticipated or calculated that one day in August, 1987 he would be seeking a post of Sericultural Extension Officer so as to claim such a reservation. When the factum of adoption and its legality remains unquestionable the law of the Hindus on the subject must necessarily have its consequences. Having gone to his new family, respondent No. 1 rightfully acquired their economic status. It is just a matter of fate that in his adopted family he has comparatively been worse off but it could be the other way had his adoptive family been affluent. The view of the Tribunal in these circumstances appears to us reasonable requiring no interference at our end. The appeal thus must fail.

6. It has been stressed by Mr. Bhat, learned counsel for respondent No. 2 that his client is likely to be thrown out of job as otherwise he has become overage and would not be in a position to get even into Government service again. He prays that we may pass some orders to protect his service. We leave this prayer unanswered. He may seek his remedy before an appropriate forum or the Court.

7. For what has been said above, this appeal is dismissed but without any order as to costs.

Appeal dismissed.

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