

U.P. State Road Transport Corpn. Through Its Managing Director and Another

Vs

Gobardhan and Another

Civil Appeal No. 12286 of 1996

((K. Ramaswamy, G. B. Pattanaik JJ)

20.09.1996

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. This appeal by special leave arises from the judgment of the Allahabad High Court made on 31-8-1995 in Writ Petition No. 6727 of 1993. For the recruitment in the year 1980, the Regional Manager of the appellant-Corporation had prepared a waiting-list of 414 candidates to be recruited during peak season or during suspension of any conductors or against leave vacancy for 15 days or one month. It would appear that the list continued for 1980-81, 1981-82 and 1982-83. The appointments were to be made during the peak season by notification in the newspapers and whoever would come within 7 days would be given appointment. Thereafter, in respect of absentees, seniority was not being adhered to and juniors were given appointments. It would appear that the respondent is one of the candidates placed in the seniority list. Since he had not received the intimation, he did not join during the peak seasons. He filed a writ petition in 1993 challenging his non-appointment and he took the plea that those junior to him were already appointed and some of them were even regularised. The High Court has accepted the contention and given the direction to appoint him to the post of conductor since some of his juniors had come to be appointed. Thus, this appeal by special leave.

4. Shri Pradeep Misra, learned counsel for the Corporation, has contended that the Corporation has evolved the principle of wait-list to meet the contingencies during peak season etc. The wait-list, for the year 1980 in fact was cancelled on 19-7-1980; the writ petitions which came to be filed against the cancellation were dismissed; the respondent filed the writ petition for the first time in 1983 (sic 1993); from 1988 onwards, the wait-list procedure has been dispensed with and, therefore, the High Court was not justified in giving the direction. Shri Bhattacharya, learned counsel for the respondent, contended that since the newspaper had no circulation in the region in which he was living, he could not see the newspaper publication; as a result, he could not appear and join the post; but since his juniors came to be appointed and some of them were even regularised, he is also entitled to the same benefit. Though we find force in the contention of Shri Pradeep Misra that the candidates have no right to the post since they are in the wait-list, since the Corporation has already appointed some of the juniors who are in the waiting-list, necessarily, before following that procedure, they should have given intimation to those candidates who were placed in the waiting-list; if even then they do not turn up, then it could be taken that they have waived the right of appointment. But in this case, it might be that a candidate who was in the waiting-list was under the expectation that he would get an order of appointment from the Corporation as and when the

vacancy arises and maybe he could not read the newspaper, though published. Under these circumstances, we think that after the cancellation of the wait-list procedure, though no one has a right those who were on the wait-list need to be considered in accordance with the rules in view of the fact that their juniors had got appointment and were even regularised. Therefore, the appellants are directed to consider the case of the respondent as a special case and make appointment according to the procedure.

5. Any other persons who had not approached or would approach the Court belatedly, would not be entitled to any relief.

6. The appeal is accordingly disposed of. No costs.