

P. Ravindran and Others

Vs

Union Territory of Pondicherry and Others

SLPs (C) Nos. 20933-36 of 1996

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

01.10.1996

ORDER

1. Delay condoned.

2. The special leave petitions arise from the orders of the Administrative Tribunal made on 20-2-1996 in OA No. 290 of 1995 and batch. The petitioners were appointed as Lecturers on ad hoc basis and some of them had obtained M. Phil, Ph.D. also. When the regular recruitment through the Public Service Commission ("the Commission" for short) was conducted, the petitioners also appeared before the Commission but they were not selected. Subsequently, the petitioners filed petitions for regularisation of their services. In the impugned order, the Tribunal has pointed out that since posts are required to be filled up by recruitment from the open market through the Commission, the Tribunal has no power to issue direction to regularise the services. Thus, these special leave petitions.

3. Shri K. M. K. Nair, learned counsel for the petitioners, contended that the petitioners are postgraduates, M. Phil and Ph.D., and they are highly qualified and have acquired experience from 1987 as lecturers. When they were appointed, number of vacancies were available. Since they have been working since 1987, they require to be regularised by suitable directions. We find no force in the contention. The admitted position is that the Commission having been entrusted with the constitutional duty to select suitable candidates by inviting applications from the open market, every candidate has a fundamental right to seek consideration and for selection through open competition. The petitioners also have that right. At one time, they staked their claims but were not selected. Therefore, the process of recruitment through the Commission, as envisaged under the Constitution, cannot be bypassed by issuing direction for regularisation of the services of the ad hoc persons who had come to the service through back-door entry. This Court in a catena of decisions has deprecated this practice of regularisation except in extraordinary cases by directing the Government to frame a scheme and regularise Classes III and IV services in accordance with the scheme. Even in subsequent decisions, that leverage is not being insisted upon. This Court in *J&K Public Service Commission v. Dr. Narinder Mohan* [(1994) 2 SCC 630 : 1994 SCC (L&S) 723 : (1994) 27 ATC 56] had held that the Court cannot adopt hybrid process of direction to regularise the services bypassing the process of selection envisaged under the Constitution. This Court has deprecated the Government for exercising the power under Article 320 of the Constitution taking out the posts from the purview of the Commission and to regularise services de hors the Commission. Under those circumstances, we are of the view that the Tribunal has rightly rejected the claim to grant the relief sought for.

4. The special leave petitions are accordingly dismissed subject to the benefit of relaxation of age

bar till the date of next recruitment so as to consider the cases of the petitioners along with open candidates.