

SUPREME COURT OF INDIA

Union of India (Uoi)

Vs.

Vinod Shanker Tripathi

(S Agrawal and G Nanavati JJ.)

22.11.1996

ORDER

1. Delay condoned.

2. Special leave granted.

3. The respondents were employed as Laboratory Attainers on ad hoc basis for seasonal work in the Government Opium and Alkaloid Works at Ghazipur. In October 1987, the department conducted an interview for recruitment against three posts of Laboratory Attainers. The respondents were not considered for selection since they did not fulfil the requirements laid down in the draft recruitment rules for that post. The respondents and one Sri Prakash (who died later) filed a petition (OA No. 1046 of 1987) before the Central Administrative Tribunal, Allahabad Bench (hereinafter referred to as ("the Tribunal")) wherein they prayed that appointments on the post of Laboratory Attainers should not be made from outside the list of ad hoc/seasonal Laboratory Attainers and that all the permanent posts of Laboratory Attainers, including those three posts, should be filled out of that list. By the impugned judgment dated 27-8-1993, the Tribunal has allowed the said application of the respondents and has directed that since the respondents have worked for a considerable period it would be just and proper that they be absorbed on regular basis giving weightage of their services already rendered and that, if necessary, the rules in this respect should also be framed. A review petition was filed by the appellants against the said judgment of the Tribunal but it was dismissed by the Tribunal by order dated 29-6-1994 both on the ground of limitation as well as on merits. Hence this appeal.

4. Shri N.N. Goswami, the learned Senior Counsel appearing for the appellants, has urged that the Tribunal was not justified in directing absorption of all the 13 applicants before the Tribunal when only three vacancies were available. Shri Goswami has also submitted that the respondents did not possess the necessary educational qualifications for the post of Laboratory Attainers as per the draft recruitment rules. Having regard to the fact that the respondents had been appointed as Laboratory Attainers on ad hoc basis and had been working on that post for a number of years and the rules had not been finally notified, it cannot be said the respondents could not be considered for regular appointment on the post of Laboratory Attender. We, however find merit in the submission of Shri Goswami that the Tribunal was not justified in directing that all the 13 applicants be

absorbed and the rules be framed to enable such absorption. All that can be said is that the respondents were entitled to be considered for appointment against the three posts of Laboratory Attainers for which recruitment was being made. The appellants will take steps to consider the case of the respondents for appointment on the three posts of Laboratory Attainers and, if any of them is selected, he be appointed on that post. If any other vacancy has occurred or occurs in future on the post of Laboratory Attender, the respondents may be considered for the same provided they fulfil the requirement of the rules, if made, for appointment on the said post and they may be given age relaxation for the purpose of such consideration. 5. The appeals are allowed in the above terms. No orders as to costs.