

Sodagar Singh

Vs

State of Punjab and Others

SLPs (C) Nos. 20421-22 of 1996

(K. Ramaswamy, G. T. Nanavati JJ)

24.01.1997

ORDER

1. These special leave petitions have been filed against the judgments and orders dated 27-5-1996 and 20-8-1996 passed by the Division Bench of the Punjab & Haryana High Court in the writ petition and the review petition in Regular Appeal No. 191 of 1996 respectively.

2. The admitted position is that the petitioner was appointed on ad hoc basis to the post of Legal Assistant in the respondent-organisation. Rule 8 of the Punjab Roadways (Ministerial) State Service Class III Rules, 1977 provides as under :

"8. No person shall be appointed to the service unless he has requisite qualifications and experience as specified in column 3 of Appendix 'B' to these rules in case of direct appointment and appointment by transfer and those specified in column 4 of the aforesaid Appendix in case of appointment by promotion.

9. (1) Appointment to the service shall be made in the following manner namely :

#(a) * * *##

(b) in the case of Legal Assistants :

(i) 20 per cent by direct recruitment; and

(ii) 80 per cent by promotion from amongst the Law Graduates service in the Department including employees of the Punjab Roadways on the basis of merit-cum-seniority; or

(iii) by transfer or deputation of an official already in service of Government of a State or Government of India, if a suitable candidate is not available by the methods mentioned in sub-classes (i) and (ii)."

3. A reading of Rule 8 would clearly indicate that all Law Graduates serving in the Department are eligible for consideration of promotion as Legal Assistants on the basis of merit-cum-seniority subject to the qualifications and the conditions mentioned in the Rules. Rule 9(1)(b) postulates that 20% of the posts of Legal Assistants are reserved for direct recruitment. Admittedly, the petitioner came to be appointed as a direct recruit on ad hoc basis to the post of Legal Assistant within that quota. When the direct recruitment is made, the Government has no power to relax the conditions required to be fulfilled for being eligible for appointment by direct recruitment and to give further

promotion (sic extension) the petitioner as Legal Assistant exercising the power under Rule 22 relaxing Rules 8 and 9 of the Rules. The Division Bench of the High Court, therefore, is right in its conclusion that the petitioner, having been appointed as Legal Assistant on ad hoc basis, could not continue any longer unless a regular recruitment was made. A direction, therefore, was given to the respondents to make regular recruitment and in the event of regular appointment not being made within three months, the petitioner would not continue any longer after the expiry of three months. Under these circumstances, we do not think that the High Court has committed any error of law in the above interpretation warranting interference. It is for the Government to take appropriate action under the law.

4. The special leave petitions are accordingly dismissed.