

Kali Charan and Others

Vs

H. S. E. Board and Others

SLPs (C) No. 11947 of 1996 With Nos. 10255, 10845, 18210-220, 24767-772 of 1996 (Cc No. 6140 of 1996)

(G. B. Pattanaik, S. C. Agarwal JJ)

18.02.1997

ORDER

1. These special leave petitions relate to appointment on the posts of a Assistant Linemen and Shift Attendants in the Haryana State Electricity Board (hereinafter referred to as "the Board"). The petitioners were selected and have been appointed on these posts. Their appointments were challenged in the writ petitions filed before the High Court of Punjab and Haryana which were allowed by the learned Single Judge by his judgment dated 25-11-1995. Before the learned Single Judge it was submitted on behalf of petitioners that the selection was made by a Selection Committee in each circle on the basis of marks and that out of 25 marks that were prescribed 5 marks were allotted for experience and 5 marks were allotted for extracurricular activities and 15 marks were allotted for interview. It was also pointed out that although in the advertisement whereby applications were invited it was stated that there were 791 posts of Assistant Linemen and 250 posts of Shift Attendants, appointment had been made on 1676 posts of Assistant Linemen and 468 posts of Shift Attendants. It was also submitted that persons who had qualified apprenticeship training were given no credit either towards the experience or preference in the matter of appointment. During the course of arguments before the learned Single Judge the learned Advocate General for the State of Haryana, appearing for the Board, conceded that the appointments had been made in excess of the advertised posts. He also conceded that the Selection Committees constituted for separate circles had not adopted uniform criteria in judging the inter se merit of the candidates and that in some circles marks had been allotted for academic qualifications while in others it was not so. It was also stated that the Board had made reservation in excess of the 50% only on account of the fact that there was backlog of vacancies. The learned Single Judge held that the selection was vitiated on account of the said irregularities and he set aside the entire selection and the appointments made on the basis of that selection. He directed that a fresh selection be made after making fresh advertisements. Letters patent appeals were filed against the said judgment of the learned Single Judge but the same have been dismissed by the Division Bench of the High Court by the impugned judgment whereby the judgment of the learned Single Judge has been upheld. Feeling aggrieved by the said judgment dismissing the letters patent appeals, the petitioners have filed these special leave petitions.

2. We have heard Shri P. P. Rao and Shri Tapash Ray, the learned Senior Counsel appearing for the petitioners in support of the special leave petitions and Shri K. Madhava Reddy, the learned Senior Counsel appearing for some of the respondents as well as Ms. Indu Malhotra, the learned counsel appearing for the Board.

3. We have been informed that in pursuance of the impugned judgment the Board has now

formulated the policy for making the selection for the posts of Assistant Linemen and Shift Attendants on Statewise basis and the selection will be made on the basis of the marks obtained in the written examination and guidelines have also been laid down for award of marks for educational qualifications, experience and extra- curricular activities and a interview. It has been stated that the selection process is going on and that the written examination has been held and that the petitioners in these special leave petitions have participated in the fresh selection. Keeping in view the facts and circumstances referred to above, we are not inclined to interfere with the impugned judgment.

4. It is, however, made clear that while making appointments the Board shall keep in mind the limit for reservation laid down by this Court in the case of *Indra Sawhney v. Union of India* (1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385). The Board, while making the selection, shall take into account the work of the petitioners as Assistant Linemen/Shift Attendants on the basis of their appointments under the earlier selection for the purpose of awarding marks for experience. Till the selection process is completed and appointments are made on the basis of such selection the services of the petitioners shall not be terminated. The special leave petitions are disposed of accordingly.