

Kuldip Chand

Vs

State of H.P. and Others

Civil Appeal No. 2745 of 1997

(K. T. Thomas, Dr. A. S. Anand JJ)

11.04.1997

ORDER

1. Leave granted.

2. The appellant was appointed as Voluntary Teacher on tenure basis under the Voluntary Teachers Primary Scheme, 1991. Respondent 4 challenged his appointment on the basis that he was academically more meritorious than the appellant and that the Selection Committee was not justified in awarding him 21 marks in viva voce as against 16 marks to Respondent 4. The State Administrative Tribunal allowed the application of Respondent 4 and quashed the selection of the appellant. The appellant has put the order of the State Administrative Tribunal dated 10-12-1992 in issue.

3. The State Administrative Tribunal, in our opinion, fell in complete error in judging the comparative merit of the candidates and finding fault with the award of 21 marks in viva voce to the appellant as against 16 marks awarded to Respondent 4. The Tribunal exceeded its jurisdiction in entering into the field exclusively reserved for the Selection Committee. The finding that the appellant "manipulate" his selection is not supported by any material and reasons and is purely a conjectural finding.

4. In *Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan* [(1990) 1 SCC 305 : 1990 SCC (L&S) 80 : (1991) 16 ATC 528 : AIR 1990 SC 434] while dealing with a somewhat identical question, this Court opined : (SCC pp. 309-10, para 12)

"... It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so-called comparative merits of the candidates as assessed by the court, the High Court went wrong and exceeded its jurisdiction."

The above observation applies to the facts of the present case with full force.

5. In the instant case the selection of the appellant was quashed by the Tribunal by finding fault with the award of 21 marks in viva voce to the appellant without assigning any reasons. The selection of the appellant was not quashed on any other ground. The order of the Tribunal under the circumstances cannot be sustained. The appeal succeeds and is allowed. The impugned order dated 10-12-1992 is hereby quashed and the matter is remitted to the Tribunal for a fresh disposal on the other issues involved in the case on merits in accordance with law and after hearing the parties. No costs.