

Union of India and Others

Vs

R. Ayyappan

Civil Appeal No. 6467 of 1997

(Sujata V. Manohar, D.P. Wadhwa JJ)

12.09.1997

ORDER

1. Leave granted.

2. The dispute relates to an isolated post of Operator (Ice Plant) in the Integrated Fisheries Project of the Union of India. The recruitment rules provide for the post being filled by promotion failing which, by direct recruitment. It is contended by the appellants that the vacancy which is the subject-matter of dispute, was reserved for a Scheduled Caste candidate and hence the first respondent who had been working as an Assistant Operator for the last 26 years and was otherwise eligible for promotion was not entitled to be promoted to this post since he belonged to the general category. The respondent in fact had been acting as Operator since 31-8-1993 when the previous incumbent voluntarily retired.

3. The Central Administrative Tribunal, Ernakulam has allowed the application of the respondent on the ground that a solitary post cannot be reserved, relying upon the decision of this Court in Chakradhar Paswan (Dr) v. State of Bihar ((1988) 2 SCC 214 : 1988 SCC (L&S) 516 : (1988) 7 ATC 104) and Chetana Dilip Motghare v. Bhide Girls' Education Society (1995 Supp (1) SCC 157 : 1995 SCC (L&S) 312 : (1995) 29 ATC 107).

4. The appellants have pointed out that in the case of State of Bihar v. Bageshwari Prasad (1995 Supp (1) SCC 432 : 1995 SCC (L&S) 506 : (1995) 29 ATC 349) this Court held that even a single post can be reserved by rotation on the basis of a roster, distinguishing the case of Dr. Chakradhar Paswan v. State of Bihar ((1988) 2 SCC 214 : 1988 SCC (L&S) 516 : (1988) 7 ATC 104). This view has been reaffirmed by a Bench of three Judges of this Court in Union of India Madhav ((1997) 2 SCC 332 : 1997 SCC (L&S) 503).

5. In the present case, however, the appellants are unable to point out to us any such reservation of the present post which is a single post, by rotation as contemplated in the case of State of Bihar v. Bageshwari Prasad (1995 Supp (1) SCC 432 : 1995 SCC (L&S) 506 : (1995) 29 ATC 349) or Union of India v. Madhav ((1997) 2 SCC 332 : 1997 SCC (L&S) 503). The Tribunal, therefore, was entitled to rely upon the decision in the case of Dr. Chakradhar Paswan v. State of Bihar ((1988) 2 SCC 214 : 1988 SCC (L&S) 516 : (1988) 7 ATC 104). The appeal is hence dismissed. There will be no order as to costs.