

State of U.P. and Others

Vs

Sachidanand Srivastava and Others

Civil Appeals No. 3878 of 1998 with Nos. 3879-3881 of 1990 and SLP (C) No. 14547 of 1989

(Sujata V. Manohar, G. B. Pattanaik JJ)

13.08.1998

ORDER

1. The three respondents before us had filed a writ petition before the High Court contending that they should also be considered for the post of Assistant Presenting Officers before the U.P. Public Services Tribunal; and certain posts of Assistant Presenting Officers before the U.P. Public Services Tribunal should be reserved for them.
2. Under executive instructions containing GO dated 28-1-1982, the State Government, inter alia, provided that the Upper Division Assistants in the State Secretariat are eligible for promotion to the post of Assistant Presenting Officer in the U.P. Public Services Tribunal provided they possess the qualification of LL.B. degree of a recognised university and have sufficient experience and knowledge of Service Rules. The GO of 28-1-1982 did not make Munsarims and Assistant Registrars working as ministerial staff in the U.P. Public Services Tribunal eligible for appointment to the post of Assistant Presenting Officers. The respondents thereupon filed the said writ petition.
3. The first respondent, at the material time, was Assistant Registrar of the U.P. Public Services Tribunal. The second and third respondents were Munsarims in the said Tribunal. All of them possess an LL.B. degree. It was in this context that the High Court considered their claim to at least some posts out of the 5 posts of Assistant Presenting Officers which were available then. The High Court in the impugned judgment has given certain directions, finding that the three petitioners (present Respondents 1, 2 and 3) before it possessed the qualification of a Law degree and had been working in the U.P. Public Services Tribunal. The High Court said that the State Government should consider the case of the petitioners before it for giving at least one post of Assistant Presenting Officer to those who are working in the Public Services Tribunal, maybe by amending the GO dated 28-1-1982. The Government was directed to consider the case of the claimants for such appointment.
4. Learned counsel appearing for the appellants before us has pointed out that the directions contained in the High Court judgment for considering the three petitioners before the High Court for at least one post of Assistant Presenting Officer, has now become infructuous since all the three petitioners before the High Court have by now retired. He has, therefore, submitted that the appeal should be allowed.
5. Learned counsel for the respondents, however, strenuously contended that the ministerial staff consisting of Munsarims and Assistant Registrars in the U.P. Public Services Tribunal should also be included in the GO of 28-1-1982 for appointment to the posts of Assistant Presenting Officers. The High Court, however, has not given any such general Direction. From the order to the High Court,

we do not find that the High Court had compared the posts of Munsarims and Assistant Registrars in the U.P. Public Services Tribunal with the posts of Upper Division Assistants in the Sachivalaya or held these posts as equivalent posts. Without such a finding, the High Court could not have come to a general finding that an opportunity for promotion was denied to the ministerial staff of the U.P. Public Services Tribunal in framing the GO of 28-1-1982. We also do not find any express direction in the High Court order either setting aside the GO of 28-1-1982 or amending it. We do not see how such a direction can now be given. Even a cursory look at the terms and conditions of service of Munsarims and Assistant Registrars shows that the pay scale of Munsarims at the material time was Rs. 515-860, while the pay scale of Assistant Registrars was higher, being the pay scale of Rs. 570-1100. As against these, the pay scale of Upper Division Assistants was even higher, being Rs. 620-1260. We fail to see how these three posts could have been equated for promotion. Nor has the High Court arrived at such a finding. We do not find any material on record to support such a finding. The contention of the respondents that there is violation of Article 14 in excluding Munsarims and Assistant Registrars from the eligible cadres for promotion to Assistant Presenting Officer in the GO of 28-1-1982, will have to be rejected. Nor has the High Court given any such finding.

6. Since the directions contained in the High Court judgment are confined to the three petitioners before the High Court who cannot now be given the benefit of those directions, we allow the appeal and set aside the impugned judgment and order of the High Court. The other connected appeals are disposed of in the light of the above order. The special leave petition filed by one of the respondents (one of the petitioners before the High Court) is dismissed.