

Bhup Singh

Vs

State of Haryana and Others

Civil Appeal No. 15511 of 1996

(S. Saghir Ahmed, K. T. Thomas JJ)

13.08.1998

ORDER

1. The appellant herein was an applicant for the post of Labour Inspector in the Labour Department of the State of Haryana. He was holding the post of Assistant in the same Department and he put forth the claim as eligible to be promoted to the post of Labour Inspector. A total cadre strength of 44 posts of Labour Inspectors has been fixed. As per, the relevant Rule, they were to be filled up by promotion as well as by direct recruitment in equal divisions. Reservation quota for Scheduled Castes and Scheduled Tribes and Backward Classes has been fixed up as per the letter dated 9-2-1979, issued by the Government. Out of that quota, 20% of the posts were reserved for members of the Scheduled Castes alone. It is not necessary to refer to the other quota for the other classes, since that is not material now and the only claim of the appellant is that since he belongs to a Scheduled Caste, he should have been one of the promotes. A roster was formulated containing 100 points indicating the posts against which the appointments were to be made. The grievance of the appellant is that when Point No. 68 in the roster was earmarked for a member of a Scheduled Caste, that vacancy was filled up from General category and thereby upset the appellant's right to get promoted. If the roster had been followed, the appellant would have been the right candidate for filling up that vacancy, which tallied with Roster Point No. 68 according to the appellant. With the aforesaid contentions, he approached the High Court of Punjab and Haryana with a writ petition, but a Division Bench of the High Court dismissed the writ petition by the impugned order.

2. The stand adopted by the Government of Haryana and the other respondents is the following :

Out of the total cadre strength of 44 Labour Inspectors, the quota of 20% for the Scheduled Castes would not exceed nine which alone should go to the benefit of candidates belonging to the Scheduled Castes by way of reservation. Those nine posts can be filled up by promotion as well as by direct recruitment. As a matter of fact, nine persons belonging to the Scheduled Castes were already promoted or appointed in the cadre of Labour Inspectors on the strength of their having Scheduled Caste candidates (sic certificates). Five among them were promoted candidates and four among them were appointed by direct recruitment. That all those nine persons belong to the Scheduled Castes has not been controverted either before the High Court or before us. The Division Bench of the High Court, therefore, took the view that, inasmuch as the nine posts were admittedly filled up by members of the Scheduled Castes, the prescribed quota has already been attained and the roster points thereby lost their utility as for the Scheduled Caste reservation posts. In the said view of the matter, the High Court found that the appellant cannot press for displacement of the candidate selected from the General category on the ground that the same was as against Roster Point No. 68.

3. Learned counsel for the appellant contended that in view of the legal position elucidated by this Court in Prabhash Chand Jain v. State of Haryana ((1996) 8 SCC 105 : 1996 SCC (L&S) 830) roster points should have been taken into consideration while filling up the vacancies irrespective of the question whether candidates belonging to the reserved categories have already been selected or not. The question involved in that case was whether the Government is entitled to issue a circular that, when there are only two posts, reservation policy need not be implemented. In that context, learned Judges observed that such a letter ought not have been issued by the Government and vacancies should have been filled up according to the roster points.

4. Utility of a roster is to provide a guideline for filling up the reserved quota for different groups vis-a-vis the candidates from the General category. Once the quota is achieved as for one or the other group of communities entitled to reservation, the roster will cease to have utility for that community because the guideline would already have been followed. This was precisely one of the points urged before the Constitution Bench in R. K. Sabharwal v. State of Punjab ((1995) 2 SCC 745 : 1995 SCC (L&S) 548 : (1995) 29 ATC 481). The Bench has observed thus : (SCC Headnote)

"When the total number of posts in a cadre are filled by operation of the roster then the result envisaged by the impugned instructions is achieved. There is no justification to operate the roster thereafter. The 'running account' is to operate only till the quota provided under the impugned instructions is reached and not thereafter. The vacancies arising in the cadre, after the initial posts are filled, will pose no difficulty."

5. In the light of the aforesaid principle laid down by the Constitution Bench, it is not possible for us to accept the stand of the appellant that no matter that quota has already been achieved, but the roster point should have been implicitly followed even thereafter.

6. We agree with the reasoning and the conclusions of the Division Bench of the High Court in passing the impugned order. The appeal is dismissed.