

Sheo Dutt Sharma Ors. vs State Of U.P. And Ors. on 20 January, 1984

Equivalent citations: AIR1984SC634, [1984(48)FLR473], 1984LABLC341, 1984SUPP(1)SCC190, AIR 1984 SUPREME COURT 634, 1984 LAB. I. C. 341, 1984 UPLBEC 131, 1984 SCC (L&S) 625, (1984) 48 FACLR 473, (1984) 1 LAB LN 488, (1984) UPLBEC 131

Bench: D.A. Desai, R.B. Misra

ORDER

1. Petitioners in this group of petitions were promotees to the cadre of Marketing Inspectors in the State of U.P. Way back on September 15, 1970, a decision appears to have been taken for recruitment to the cadre of Marketing Inspectors from two sources : (1) 50% of the posts to be filled in by promotion from the rank of clerical staff and (2) 50% by direct recruitment. For this purpose, it was decided to prepare a statewide seniority list of clerical cadre, which would be the source from which promotion could be made to the cadre of Marketing Inspectors. The respondents used to make the promotions occasionally temporarily and occasionally ad hoc. It also appears that during the procurement season, the strength in the cadre of Marketing Inspectors is required to be augmented for the period of procurement. To meet the need of temporary nature, ad hoc promotions used to be given, reversion following as a matter of course on the procurement season coming to an end. As large number of Marketing Inspectors were sought to be reverted, number of writ petitions were filed by the Marketing Inspectors who were under a threat of reversion in the Allahabad High Court. Some of them such as petitioners in Civil Misc. Writ No. 6763 of 1983 in the Allahabad High Court succeeded in obtaining interim relief from the vacation Judge and under the sanction of the interim order continued to function, as Marketing Inspectors. A Division Bench of the High Court finally disposed of the writ petition at the admission stage observing that the promotions of the petitioners in that case were ad hoc and up to and inclusive of the period August 31, 1983 and therefore, they had no right to the post of Marketing Inspector. The High Court farther observed after referring to the counter-affidavit filed on behalf of the State of U.P. that the steps were being taken for preparation of statewide seniority list of clerical staff for the purpose of promotion to the post of Marketing Inspector. The High Court accordingly held that the petitioners have no right to be in the posts of Marketing Inspectors and accordingly dismissed the writ petition.

2. Number of other writ petitions involving the same point were dismissed observing that for the reasons recorded in the judgment in Writ Petition No. 6763 of 83, cognate petitions raising the same point may be dismissed.

3. Some other writ petitions filed by Marketing Inspectors claiming identical relief came up before another Division Bench of the same High Court. The Division Bench rejected the writ petitions observing that the petitioners have an alternative remedy for obtaining the same relief by

approaching U.P. Public Services Tribunal and therefore, the writ petitions were liable to be dismissed.

4. The petitioners whose writ petitions were dismissed by the High Court for the aforementioned two reasons have filed these special leave petitions.

5. Today when these special leave petitions came up for admission, Mr. Kapil Sibal, learned Counsel who appeared for the State of U.P. drew our attention to an order made by a Division Bench of the Allahabad High Court on September 20, 1983 in Writ Petition No. 3440 of 1983, the relevant portion of which may be extracted:

We accordingly direct that so far as appointments on the posts of Marketing Inspectors by promotion from among the clerks are concerned, such of the officiating Marketing Inspectors as are senior most according to the said seniority list as corrected up to date and as could be accommodated within the 50 per cent promotion quota (subject to reservation against promotion posts, in favour of Scheduled Castes and Backward Classes Candidates) shall be allowed to continue as officiating Marketing Inspectors while the rest may be reverted. It is further clarified that so far as the posts of seasonal Marketing Inspectors are concerned which were created only for the period up to the end of August, 1983 we are not directing extension of the term of such posts. The persons who are to be accommodated within the 50 per cent promotion quota as directed above shall be accommodated to the extent possible against regular posts of Marketing Inspectors and not against seasonal posts. This order is being passed in supersession of earlier interim orders passed in this case.

6. Mr. Kapil Sibal stated that the State of U.P. accepts the finding herein recorded that the seniority list in respect of the clerical cadre dated January 10, 1983 would be treated as the final seniority list and promotion to the post of Marketing Inspector will be made according to the seniority as set out in the seniority list dated January 10, 1983. He made it clear that if any individual claims any error concerning himself in the seniority list on a proper representation being made the same will be examined and the conclusion reached would be given effect. He stated that the State of U.P. will act according to and consistent with the direction made by the Allahabad High Court as extracted hereinabove. He stated that he makes the aforementioned statement on behalf of the State of U.P.

7. The main relief was sought against the State of U.P. The State of U.P. accepts through Mr. Kapil Sibal that the seniority list of the clerical staff dated January 10, 1983 is the final seniority list and would be the basis on which promotion to the post of Marketing Inspector would be made according to the place in the seniority list to fill in 50% of the promotion quota subject to reservations in favour of Scheduled Castes and Backward Classes candidates according to the rules in force. The promotion would be to the regular post of Marketing Inspector. Ad hoc promotion may be made as per the seasonal requirement, more especially during the procurement season. However such promotions must be specific in terms with specification of the period during which promotion is given. Such promotions would be outside the quota of 66% to be filled-in by promotion in the regular cadre of Marketing Inspector. Petitioners shall be adjusted with regard to their

promotions as herein indicated. The statement by Mr. Kapil Sibal would accord full justice to the petitioners and they cannot claim any more relief in these petitions and therefore, petitions stand disposed of with no order as to costs.