

Bhupinder Singh Saini And Ors. vs State Of Punjab And Ors. on 20 February, 2001

Equivalent citations: AIR2002SC2535, [2001(90)FLR827], JT2001(5)SC491, 2003(10)SCALE49, (2003)9SCC161, AIR 2002 SUPREME COURT 2535, 2002 AIR SCW 2753, 2002 LAB. I. C. 2470, 2003 (10) SCALE 491, 2003 (9) SCC 161, (2001) 5 JT 491 (SC), (2003) 10 SCALE 491, (2002) 3 LAB LN 850, (2002) 1 SCT 680, (2001) 6 SERVLR 798, (2001) 3 ESC 493, 2003 SCC (L&S) 1231, (2001) 90 FACLR 827

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Bench: B.N. Agrawal

JUDGMENT

1. These appellants had been appointed in the year 1991 in the Census Organisation initially as Compiler. Their services stood terminated in December, 1992 soon after the job they were rendering came to an end. They were however appointed afresh in April, 1993 as Coder in the selfsame Census Organisation and that service stood terminated in April 1994. At that point of time on the request of the Government of India the State Government had been considering the case of such surplus employees under the Census Organisation. Certain posts being available in the Municipal Election Office, the State of Punjab after interviewing these appellants and finding them suitable appointed them on 10-3-1995 as Registering Clerks in the Municipality with the specific stipulations in the appointment order that the appointment is purely temporary and would be terminable at any time without notice. They continued from 10th March, 1995 till 11th of April, 1997 when their services stood terminated by Office Order dated 10th of April, 1997. After their termination, they approached the High Court claiming that they were entitled to be considered as surplus employees of the Census organisation. But, having failed in their attempt and the writ petition having been dismissed, they have approached this Court.

2. It transpires that the Government of Punjab amended their earlier circular in 1994 and made it clear that only regular employees whose services stood terminated on account of abolition of the organisation, would be treated as surplus employees, and it is because of this circular, present appellants have not been considered as surplus employees and therefore they have not been considered for any permanent absorption or absorption on regular basis against any substantive vacancy.

3. Mr. P.N. Mishra, the learned counsel appearing for the appellants contended that the appellants have already served for more than six years from 1991 till 1997 and have been treated by the Punjab Government to be surplus employees and were adjusted on the basis of their experience and educational qualification as Registering Clerks in the Municipality, and that being the position when

permanent posts became available in the Municipality they ought to have been considered for the same and Instead their services stood terminated. Mr. Mishra, however, said that without challenging the validity of the order of termination dated 11th April, 1997, the appellants would be satisfied if a direction is given by this Court permitting them to compete with others in the matter of selection by giving them the relaxation of age to the extent they have already served the Punjab Government so that those who will be finally selected can get some employment. It is contended on behalf of the respondent-State however that in view of the relevant circulars issued from time to time these appellants could not have been considered as surplus employees and it is not known on what basis the Chief Secretary, Punjab Government, treated them to be surplus employees.

4. It is crystal clear that from the appointment letters issued to the appellants in the Municipality as Registering Clerks that the appointment was of a very precarious nature without conferring any right on the appointees. But the order of termination issued on 10th of April, 1997 unequivocally indicates that those appointees were in fact treated to be surplus employees in accordance with the instructions of Government of India and such declaration had been made by the Chief Secretary, Punjab Government. It is also undisputed that the appellants have served in the Census organisation from 1991 till 1994 though with break and then in the Municipality from 10th of March, 1995 till 10th of April, 1997. Taking these factors into consideration we think it appropriate to direct that it would be open for these appellants to compete along with others against any available vacancies and the Government of Punjab would consider the cases of these appellants by relaxing the age to the extent they have served in the Census organisation as well as in the Municipality.

5. Be it stated that the so-called relaxation would be only on account of age and not any other criteria which is fixed for any appointment in question. The appeal is disposed of accordingly.