

Supreme Court of India

Union Of India vs Yogendra Singh on 10 May, 1994

Equivalent citations: 1994 SCC, Supl. (2) 226 JT 1994 (3) 642

Author: B S.P.

Bench: Bharucha S.P. (J)

PETITIONER:

UNION OF INDIA

Vs.

RESPONDENT:

YOGENDRA SINGH

DATE OF JUDGMENT 10/05/1994

BENCH:

BHARUCHA S.P. (J)

BENCH:

BHARUCHA S.P. (J)

VERMA, JAGDISH SARAN (J)

CITATION:

1994 SCC Supl. (2) 226 JT 1994 (3) 642

1994 SCALE (2) 898

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by BHARUCHA, J.- Delay condoned. Leave granted.

2. The respondent applied to the appellants' Railway Recruitment Board for the post of Health Inspector pursuant to an employment notice dated 22-9-1990. The employment notice prescribed that the educational qualifications for the said post were B.Sc. (Chemistry) plus Diploma of Health Inspector from a recognised institute. The respondent was called for a written test, in which he was successful. He was then called for an interview. Before the interview was held it was discovered that the respondent did not possess the aforementioned educational qualifications and he was not interviewed.

3. The respondent filed an application before the Central Administrative Tribunal, Bombay, and contended that he held the Degree of B.A. and the + From the Judgment and Order dated 28-9-1993 and 11-10- 1993 of the Central Administrative Tribunal, Bombay in O.A. No. 681 of 1992 Diploma of

Sanitary Inspector and was eligible having regard to the educational qualifications prescribed prior to 24-5-1990, which qualifications were relevant for vacancies that existed on the date of the amendment of the educational qualifications, namely, 24-5-1990. The application of the respondent was allowed and the Tribunal ordered that the respondent should be interviewed and, if found successful in the interview, should be offered appointment against a reserved post, he being a Scheduled Caste candidate.

4. Learned counsel for the appellant contended that applications were invited on 22-9-1990 not only for vacancies that existed on 24-5-1990 but also for those that arose subsequently and that, therefore, the Tribunal was in error in holding that the respondent should be governed by the educational qualifications required prior to 24-5-1990. Learned counsel for the respondent laid great emphasis on an office memorandum issued by the Ministry of Home Affairs on 22-9-1964 on the subject of reservation of vacancies for Scheduled Castes and Scheduled Tribes in the essential services. In the context of insufficient number of suitable candidates eligible for reserved vacancies, it stated that in any recruitment year the number of normal reserved vacancies and carried forward reserved vacancies together should not exceed 45% of the total number of vacancies. If there were only two vacancies, one of them could be treated as a reserved vacancy but if there was only one it should be treated as unreserved. Within any year of recruitment the condition of eligibility, of age or otherwise, should remain the same even if recruitment was made more than once in that year, i.e., a person who was eligible on 1st January of a particular year should not be disqualified on the ground that he was no longer eligible by the time the relevant vacancy (against which he could be appointed) arose later in that year. In the submission of learned counsel this meant that the educational qualifications prescribed prior to 24-5-1990 were the relevant educational qualifications to be considered for the recruitment of the respondent. The respondent had those educational qualifications so that he had been wrongly excluded. Learned counsel for the respondent also referred to employment notices said to have been issued by the Railway Recruitment Board at other centers subsequent to 24-5-1990 where the educational qualifications were prescribed as Matriculation or equivalent or Diploma of Sanitary Inspector.

5. At the time the applications were invited for the posts in question the educational qualifications, already prescribed on 24-5-1990, were B.Sc. (Chemistry) plus Diploma of Health Inspector from a recognised institute. The employment notice set out these to be the educational qualifications. The respondent did not possess these educational qualifications. No candidate who does not possess the currently prescribed qualifications, but who may possess the educational qualifications prescribed earlier, can be said to qualify or have any vested right to appointment even against some earlier unfilled vacancy. Every candidate who aspires to fill any vacancy must possess the educational qualifications that are then prescribed.

6. The office memorandum of the Ministry of Home Affairs on the subject of reservation of vacancies-for Scheduled Castes and Scheduled Tribes in the Central services has no application to the requirement of educational qualifications. It only applies to eligibility for the purpose of carrying forward of reserved vacancies. Similarly, having regard to the admitted position that the educational qualifications that were prescribed on 24-5-1990 were B.Sc.

(Chemistry) plus Diploma of Health Inspector of a recognised institute and this was specifically mentioned in the employment notice, the circulars inviting applications at other centres have no relevance.

7. In this view of the matter, the appeal is allowed and the application of the respondent before the Central Administrative Tribunal is dismissed.

8. There shall be no order as to costs.