

Supreme Court of India

Kuldip Chand vs State Of H.P. & Ors on 11 April, 1997

Bench: A.S. Anand, K.T. Thomas

PETITIONER:

KULDIP CHAND

Vs.

RESPONDENT:

STATE OF H.P. & ORS.

DATE OF JUDGMENT: 11/04/1997

BENCH:

A.S. ANAND, K.T. THOMAS

ACT:

HEADNOTE:

JUDGMENT:

Present:

Hon'ble Mr. Justice A.S. Anand Hon'ble Mr. Justice K.T. Thomas J.S. Attri, Devendra Singh, Advs. for the appellant T. Sridharan and P.D. Sharma, Advs. for the Respondents O R D E R The following Order of the Court was delivered:

Leave granted.

The appellant was appointed as Voluntary Teacher on tenure basis under the Voluntary Teachers Primary Scheme 1991. Respondent No.4 challenged his appointment on the basis that he was academically more meritorious than the appellant and that the Selection Committee was not justified in awarding him 21 marks in viva voce as against 16 marks to respondent No. 4. The State Administrative Tribunal allowed the application of respondent No.4 and quashed the selection of the appellant. The appellant has put the order of the State Administrative Tribunal dated 10th December 1992 in issue.

The State Administrative Tribunal, in our opinion, fell in complete error in judging the comparative merit of the candidates and finding fault with the award of 21 marks in viva voce to the appellant as against 16 marks awarded to respondent No.4. The Tribunal exceeded its jurisdiction in entering

into the field exclusively reserved for the selection committee. The finding that the appellant 'manipulated' his selection is not supported by any material and reason and is purely a conjectural finding. In *Dalpat Abasahe Solunke. etc. etc. Vs. Dr. B.S. Mahajan etc. etc.* (AIR 1990 SC 434), while dealing with some what identical question, this court opined:

"It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidate. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The court has no such expertise. The decision of the Selection Committee can interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University has constituted the Committee in due compliance with the relevant status. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made an in comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction."

The above observation apply to the facts of present case with full force.

In the instant case the selection of the appellant was quashed by the Tribunal by finding fault with the award of 21 marks in viva voce to the appellant without assigning any reasons. The selection of the appellant was not quashed on any other ground. The order of the Tribunal under the circumstances cannot be sustained. The appeal succeeds and is allowed. The impugned order dated 10th December, 1992 is hereby quashed and the matter is remitted to the Tribunal for a fresh disposal on the other issue involved in the case on merits in accordance with law and after hearing the parties. No costs.