

Supreme Court of India

Vishal Gupta vs State Of J & K And Ors. on 4 April, 1994

Equivalent citations: 1995 Supp (2) SCC 754

Bench: M Venkatachaliah, S Mohan

ORDER

1. Leave granted.

2. These appeals by special leave are by two rival candidates for admission to the medical course in the State of Jammu and Kashmir for the academic year 1992. The controversy relates to the selection for admission to a seat reserved for the children of police personnel and para military forces in the State. Both the appellants in these appeals claim to be eligible for consideration against this quota.

3. The appeals are directed against the order dated 16th August, 1993 of the Division Bench by which the High Court directed that none of the appellants should be selected for the seat and that the seat be deemed to be kept vacant. A brief advertence to the factual ante Lents might be necessary.

4. A notification calling for admission to the medical course was issued on 1st June, 1992. 29th June, 1992 was the last date for submitting the applications. It is not disputed that both these appellants - Vishal Gupta and Sunil Kumar Sharma - filed their applications. It is also not disputed that Vishal Gupta had 152 marks as against Sunil Kumar Sharma who had secured 138 marks.

5. On 29th August, 1992. i.e. after the last date for receipt of the applications had expired, Government of Jammu and Kashmir issued an order providing for reservation of one per cent of the total seats in favour of the children of police personnel and para military forces. In response to this order of reservation 16 candidates claiming to be the children of police personnel sought to be considered against this special quota. It is not disputed that Vishal Gupta - appellant in civil appeals arising out of special leave petition Nos. 13850-51 of 1993 had the highest marks in this category. It is also not disputed that Vishal Gupta satisfied the eligibility condition being the son of a police personnel.

6. Such controversy as obtains in this case surrounds the fact as to when exactly Vishal Gupta submitted the certificate from the Deputy Inspector General of Police, Jammu Range in regard to his eligibility. Initially a selection was made and Sunil Kumar Sharma was granted admission. Vishal Gupta made a representation urging that his higher and better entitlement against this quota had not been considered, though he had earlier filed the requisite certificate indicating his eligibility. Upon a consideration of the matter the authorities issued a corrigendum on 4th November, 1992 correcting the original selection. In place of Sunil Kumar Sharma, Vishal Gupta was selected and the seat was filled up accordingly.

7. Sunil Kumar Sharma filed a writ petition challenging this corrigendum. The writ petition was dismissed by the learned Single Judge. However, in appeal the Division Bench went into certain

irregularities pertaining to the issue and submission of the certificates and held that in view of this controversy the seat should not be filled up at all and should be kept vacant. It is to be noticed that pursuant to the corrigendum Vishal Gupta was admitted to the course and for almost one and a half years now he has been pursuing the studies.

8. We do not intend to go into the controversy as to when the certificate in favour of Vishal Gupta was issued. The authorities have not doubted the authenticity or genuineness of the certificate nor have raised any objection as to the date of its issuance from the source from which it emanated. It is not disputed either that Vishal Gupta was academically better of the two candidates, having had 152 marks. It is also not disputed that he was the son of a police officer and satisfied the eligibility. It is also not disputed that Sunil Kumar Sharma had only 138 marks.

9. In these circumstances, it appears to us, the technicalities as to when the certificate was issued by the Deputy Inspector General of Police, Jammu Range; when it was submitted and whether it was in the requisite proforma or not, are all matters which recede to the background. Vishal Gupta had been admitted in 1992 and is now continuing in the course. The circumstances indicated by the Division Bench, in our opinion, do not compel an inference as to any fraud practised by the candidates.

10. We, therefore, allow the appeals arising out of special leave petition Nos. 13850-51 of 1993, set aside the judgment of the Division Bench and restore that of the learned Single Judge. Civil Appeals arising out of special leave petition Nos. 17387-88 of 1993 are dismissed. No costs.