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V. RANGANATHAN

v.

N. BASKARAN AND ORS.

(Special Leave Petition (c) No. 18247 of 2006)

SEPTEMBER 16, 2010

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[ALTAMAS KABIR AND A.K. PATNAIK, JJ.]

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Service law: Appointment of Principal – Unsuccessful candidate seeking direction upon the authority to appoint him to the post instead of selected candidate – Tribunal directing the authority to appoint him to the post – Writ petitions by the selected candidate and the authority – High Court allowing the writ petitions – Held: No reason to interfere with the order of the High Court – Appointment process was fair, transparent and reasonable – Challenge by unsuccessful candidate was not for quashing of appointment made and his prayer was limited to a direction to the authority to appoint him to the post – Education Department was also not given an opportunity of hearing by tribunal – Moreover, the selection list showed that the unsuccessful candidate was placed at rank 10 and in the reserve list there were three more candidates placed over him– Administrative law – Opportunity of hearing.

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The petitioner and respondent no.1 applied for the post of Principal in Government Higher Secondary School and on the basis of preliminary scrutiny were called for interview alongwith the other candidates. Respondent no.1 was selected for the post. The petitioner filed original application (OA) before the Central Administrative Tribunal seeking direction upon the U.P.S.C. to appoint him to the said post under the Scheduled Caste category instead of respondent no.1. The tribunal allowed the OA. Respondent no.1 and U.P.S.C. filed writ petitions challenging the order of the tribunal. The High Court allowed the writ petitions. The

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instant special leave petition was filed challenging the order of the High Court. A

Dismissing the special leave petition, the Court

HELD: 1. There was no reason to differ with the views expressed by the High Court regarding the work experience of respondent no.1 at the Higher Secondary level which was found to be 10 years and 4 months, whereas the period of qualifying service was 10 years. The methodology adopted by the respondents in arriving at such finding was fair and transparent and also reasonable. Furthermore, the petitioner had not even prayed for quashing of the appointment issued to respondent no.1 and his prayer in the OA before the Tribunal was limited to a direction being given to the U.P.S.C. to appoint him to the post of Principal in a Higher Secondary School in Pondicherry under the Scheduled Caste category instead of respondent No.1. Besides, before setting aside the appointment of respondent no.1, no opportunity was given to the Secretary, Education Department, Government of Pondicherry, to answer the questions which were raised by the petitioner. The selection list produced by the U.P.S.C. showed that the petitioner was placed at rank No.10 in the reserve list and even in the reserve list there were three more candidates placed above him. Considering the same, there was no reason to interfere with the order of the High Court. [Paras 14, 15] [554-F-G; 555-A-D] B C D E F

CIVIL APPELLATE JURISDICTION : SLP (Civil) No. 18247 of 2006. G

From the Judgment & Order dated 23.08.2006 of the High Court of Judicature at Madras in WP Nos. 41237 of 2005 & 10771 of 2006. H

A K.V. Vishwanathan, G. Balaji, Mahalakshmi Pavani (for Mahalakshmi Balaji & Co.) for the Petitioner.

B R. Venkatramani, Gurukrishna Kumar, Srikala Gurukrishna Kumar, Binu Tamta, Upasana Nath, V.G. Pragasam, S.J. Aristotle, Prabu Rama Subramanian, Aljo K. Joseph for the Respondents.

The Judgment of the Court was delivered by

C **ALTAMAS KABIR, J.** 1. The Respondent No.1 herein, Shri N. Baskaran, and the Union Public Service Commission filed two separate writ petitions, being W.P. Nos.41237 of 2005 and 10771 of 2006, challenging the order passed by the Central Administrative Tribunal, Chennai Bench, on 7th December, 2005 in O.A. No.689 of 2004. The relief prayed for
D by the Petitioner herein, who was the Applicant in the Original Application, was for a direction upon the Union Public Service Commission (U.P.S.C.) to appoint him to the post of Principal in a Higher Secondary School in Pondicherry under the Scheduled Caste category instead of Shri N. Baskaran,
E pursuant to order No.F.1/114/2003-R.III dated 16th July, 2004, issued by the said Respondent. The said relief was subsequently amended in the following manner :-

F "Under these circumstances, it is prayed that this Hon'ble Tribunal may be pleased to implead the third respondent as party respondent in O.A.No.689/2004 so as to quash the appointment order issued by the 3rd respondent in his letter in Ref.No.A.12012/CS/EBN/E. 1/2004 dated 13.8.2004 and thus render justice."

G 2. The facts, which led to filing of the two writ petitions, indicate that the Secretary, U.P.S.C., invited applications for appointment to three vacancies to the post of Principal, Government Higher Secondary Schools in Pondicherry, by
H Advertisement No.17 published in the "Employment News" on 13th September, 2003. Out of the said three vacancies, one

was reserved for a candidate from the Scheduled Castes category. It appears that in the vacancies for candidates belonging to Scheduled Castes, 48 applications were received and on the basis of preliminary scrutiny, 11 candidates were short-listed and called for interview on 9.3.2004. Both, Shri N. Baskaran and Shri V. Ranganathan, the Petitioner and the Respondent No.1 in Writ Petition No.41237/2005, were among the 11 candidates who were called for the interview. Apparently, based on his performance in the interview, Shri N. Baskaran was selected for the post as per the Selection List published on 16.7.2004. It is thereafter that Shri V. Ranganathan filed the above-mentioned O.A.No.689 of 2004 before the Chennai Bench of the Central Administrative Tribunal. The Tribunal, by its order dated 7.12.2005, allowed the Original Application and also directed the official respondents to appoint the Applicant as the Principal of the concerned Higher Secondary School. Aggrieved thereby, Shri N. Baskaran challenged such selection in Writ Petition No.41237 of 2005.

3. One of the conditions which had to be fulfilled by the candidate for being eligible to be appointed in terms of the advertisement was to have 10 years' teaching experience in a Higher Secondary School. As per Shri N. Baskaran's version, he had more than 18 years total experience of teaching. However, according to the Union Public Service Commission, as far as the Higher Secondary level is concerned, he had only 10 years and 4 months of teaching experience. It is Shri Baskaran's case that he also possessed a Post Graduate Degree in Chemistry and a Post Graduate Degree in Education. It was, therefore, claimed on his behalf that he was fully qualified for selection and appointment to the post of Principal of a Higher Secondary School.

4. On Shri N. Baskaran's behalf it was submitted that the service rendered by him in the Higher Secondary Schools as well as at the Higher Secondary level should be taken into account for calculating the period of qualifying service. It was

A mentioned that Shri Baskaran had handled Chemistry as a subject at a Higher Secondary level. That apart, the educational qualification for a teacher working in a Polytechnic is the same as that of teachers working in Higher Secondary Schools. In addition to the above, as far as the service rendered by Shri Baskaran in the District Institute of Education and Training is concerned, the same would also have to be taken into consideration for computing the years of service at a Higher Secondary level as the educational qualifications prescribed for teachers in Higher Secondary Schools and the District Institute of Education are the same and both the posts are interchangeable and carry the same scale of pay.

5. As far as Shri V. Ranganathan is concerned, it was stated on behalf of the U.P.S.C. that although he had been short-listed and was also called for the interview to fill up the vacancies in question, he could not be recommended by the Interview Board for the post of Principal as his merit position at Serial No.10 did not bring him within the zone of consideration for filling up the said post. Accordingly, his case was not considered for the purpose of filling up one of such vacancies.

6. The Tribunal rejected the contentions made on behalf of Shri Baskaran and allowed the application filed by the Petitioner herein and directed the concerned respondents to appoint him as the Principal of the Higher Secondary School. Challenging the said order of the Tribunal, the Respondent No.1 herein filed Writ Petition No.41237 of 2005 and the UPSC filed Writ Petition No.10771 of 2006.

7. Before the High Court it was the case of the U.P.S.C. that the name of Shri V. Ranganathan was not recommended for the post of Principal as his merit position in the Selection List did not bring him within the zone of consideration and since Shri N. Baskaran had the required teaching experience of 10 years, he was recommended for appointment.

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8. It was also the case of the U.P.S.C. that as far as Polytechnics are concerned, after the completion of the 10th standard, instead of joining the 11th standard, students join diploma courses, and, as such, duties at the Polytechnic level is equivalent to studies at the Higher Secondary level. Whenever there was necessity, the Government had spared Shri Baskaran's services to the Polytechnics and he had worked at the Higher Secondary level in the said Polytechnics. The further case of the Respondent No.1 was that having obeyed the order passed by the Government from time to time, the same could not be placed against him when it came to computing the period of his service.

9. In addition to the above, it was also pointed out that the U.P.S.C. had produced the selection list in which the Petitioner herein has been ranked at number 10 in the reserve list and even in the reserve list there were three more candidates placed above him. The High Court allowed the two Writ Petitions Nos.41237 of 2005 and 10771 of 2006 and the other pending applications were closed.

10. The stand on behalf of the U.P.S.C. appears to have been strongly opposed on behalf of the Petitioner herein. It was contended that if the interpretation given by the Tribunal with regard to experience, as indicated in the advertisement, is to be accepted, the service rendered in Higher Secondary Schools and also at the Higher Secondary level, would have to be taken into consideration for determining the period of qualifying service.

11. Appearing for the Petitioner herein, Mr. K.V. Vishwanathan, learned Senior Advocate, submitted that the findings of the High Court were in places at variance with the findings of the Tribunal in computing the years of experience at the Higher Secondary level which Shri N. Baskaran had acquired. It was pointed out that it was the High Court's own finding that since the system of Higher Secondary Schools is in vogue only in some States, it would be totally impossible to

A go by the term "Higher Secondary School" which was not in use in the other States.

12. According to Mr. Vishwanathan, this was a classic case for issuance of writ in the nature of quo-warranto since undoubtedly the Respondent No.1 had usurped the right of the
 B Petitioner to be appointed as Principal of the Higher Secondary School in question. It was also urged that the very procedure adopted for selection of candidates to fill up the three vacant posts of Principal was invalid and the Petitioner was entitled
 C to be considered for appointment to the post of Principal of one of the three Schools on the basis of his qualifications and experience.

13. Mr. Gurukrishna Kumar and Ms. Binu Tamta, learned Advocates appearing for the Respondent No.1 and the
 D U.P.S.C. respectively, both contended that there are different grades of teachers in the Higher Secondary Schools/Senior Secondary Schools/Inter Colleges in the country which comprise of Classes VI to XII and not all teachers teach students in Classes XI and XII which constitute the core classes
 E of the Higher Secondary Schools. It was further contended that the interpretation of experience of 10 years teaching in Higher Secondary Schools was meant to comprise such teaching experience of students belonging to the Higher Secondary Section for the purpose of short listing of candidates for
 F selection to the post.

14. Having considered the submissions made on behalf of the respective parties, we see no reason to differ with the views expressed by the High Court regarding the work experience of the Respondent No.1 at the Higher Secondary
 G level which was found to be 10 years and 4 months, whereas the period of qualifying service was 10 years. The methodology adopted by the respondents in arriving at such finding is fair and transparent and also reasonable. Furthermore, as has been pointed out by the High Court, the Petitioner herein had
 H not even prayed for quashing of the appointment issued to the

Respondent No.1 on 13th August, 2004, and his prayer in the Original Application before the Tribunal was limited to a direction being given to the U.P.S.C. to appoint him to the post of Principal in a Higher Secondary School in Pondicherry under the Scheduled Caste category instead of the Respondent No.1 herein. In addition to the above, no opportunity was also given to the Secretary, Education Department, Government of Pondicherry, to answer the questions which had been raised by the Petitioner before setting aside the appointment of the Respondent No.1 herein.

15. However, what is of cardinal importance is the fact that from the selection list produced by the U.P.S.C., it will be seen that the Petitioner herein had been placed at rank No.10 in the reserve list and even in the reserve list there were three more candidates placed above him. Considering the same, in agreement with the views expressed by the High Court, we are also not inclined to interfere with the order impugned and the Special Leave Petition is, accordingly, dismissed, but without any order as to costs.

D.G.

SLP dismissed.