

B.B. Sharma Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Nov-17-1988

Reported in : 1988WLN(UC)318

Judge : D.L. Mehta and; S.S. Byas, JJ.

Appeal No. : D.B. Civil Writ Petition No. 2357 of 1987

Appellant : B.B. Sharma

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Mr. Shah

Judgement :

1. Heard. Mr. Sharma, Additional Government Advocate prays for adjournment. Prayer is rejected.

2. Mr. Shah, learned Counsel for the petitioner, submits that malpractice practice has crept in appointing the persons to the posts, particularly on the permanent posts in the Government Departments. He submits that the system of pick and choose is prevailing. Persons are appointee on ad-hoc basis against permanent vacancies and are continued for years together. He further submits that regular persons who stand on better footing in merit, are deprived of their right of appointment or right of consideration for appointment. He submits that the system of appointment on ad hoc basis for a pretty long time is arbitrary and in violation of

Article 14 of the Constitution of India He submits that any appointment on ad hoc basis continued for years together is nothing but depriving a person who is qualified for appointment and, some-time, it may lead to favouratism and nepotism.

3. Mr. Sharma appearing on behalf of the State is not in a position to make any submission in this case. Ad hoc appointment is an appointment which is made to meet the emergent needs of the State. Sometimes it is necessary to fill up the posts to meet the emergent needs and to appoint a person without following due process of the selection or appointment. There is a distinction between an ad-hoc appoint and a regular appointment. A person who is appointed on regular basis is a person who is selected after following the rules laid down in various Service Rules. In the matter of ad-hoc appointment, the rules are not followed strictly and some time the persons well known are appointed to meet the emergent needs. Ad-hoc appointment is a part of the necessity of the State service. At the same time it cannot be used arbitrarily for an indefinite period and, if ad-hoc appointments are made without taking note of the rights of the persons who may be better qualified, then naturally it may fall within the purview of arbitrary act of the State.

4. Mr. Shah submits that in the instant case number of persons are working on ad-hoc basis since 29th January, 1986. He further submits that there are some other persons also who were appointed on ad-hoc basis prior to 1986. If the statement of Mr. Shah is taken on its face value, then naturally it will amount to an arbitrary act of the officers of the State and it will also amount to depriving the persons who may be better qualified and who may succeed in regular selections.

5. In such circumstances, we hereby direct the respondents to make regular selections within a period of three months according to the rules if posts are to be filled and should not continue the ad-hoc appointments for an indefinite period. If any ad hoc appointment is continued for more than six months ordinarily it will be treated as an arbitrary act. The writ petition is allowed to this extent. The directions are given to the respondents to make the regular appointments within three months according to the rules, if the posts are to be filled in. They will not continue the ad-hoc appointments thereafter and the opportunity should be given to the

present petitioner to appear for regular selection according to the rules.

6. The writ petition is disposed of accordingly.

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