

Moirangthem Ramo Singh Vs. State of Manipur and ors.

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Court : Guwahati

Decided On : Jun-06-2000

Judge : H.K. Sema, J.

Acts : Manipur Reservation of Vacancies in Posts and Services (For Scheduled Castes and Schedule Tribes) Act, 1976 - Section 3

Appeal No. : WP(C) No. 178 of 2000

Appellant : Moirangthem Ramo Singh

Respondent : State of Manipur and ors.

Advocate for Def. : Mr. R.S. Reisan and ;Mr. Ashok Potsangbam, Adv.

Advocate for Pet/Ap. : Mr. B.P. Sahu, Adv.

Disposition : Writ petition dismissed

Judgement :

1. Heard Mr. B.P. Sahu, learned counsel for the petitioner, Mr. R. S. Reisang, learned Government Advocate for the respondents 1 to 3, and Mr. Ashok Potsangbam, learned Sr. Advocate for the respondent No. 4.

2. The present dispute relates to the promotion post of Scientific Officer in the Department of Science and Technology, Government of Manipur, for which the Departmental Promotion Committee was held on 29.4.2000 3(three) posts of

Scientific Officer was requisitioned, out of which, two posts are general, and one post reserved for Scheduled Tribe in terms of 100% roster point reservation policy maintained according to the 'Manipur Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1976.'

3. Contention of the petitioner is that, the post of Scientific Officer is Scientific post, and therefore, it is outside the purview of the reservation of posts for Scheduled Tribe. It may be mentioned herein that the petitioner also belongs to Scheduled Caste.

4. Government of Manipur enacted, The Manipur Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1976 (Manipur Act No. 1 of 1977) regulating the procedure for reservation of the post in respect of Scheduled Castes and Scheduled Tribes in the State. Section 3 of the Act, deals with the application of the Act for appointments to the posts and services, it reads :-

'3. This Act shall apply to all appointments to the posts and services under the State except -

(a)

(b) Those classified as scientific posts ;

(c)

(d)'

5. Counter on behalf of the respondents has been filed. It is contended by the respondent that the post of Scientific Officer in the Department of Science and Technology has not been classified as Scientific post by the Government. Mr. Sahu, however, referred to Annexure - R/2 to the counter of the petitioner in C. Misc. 200/ 2000, and submits that, in letter dated 5.2.2000 in which the Executive Director has enclosed proforma in regard to the Assembly question, it appears that the post of Scientific Officer is Scientific post. This disclosure cannot be classified' that the post of Scientific Officer as Scientific post in absence of Notification issued

by the Government classifying the post of Scientific Officer as Scientific post. Section 3(b) is exclusionary provision. What is required under Section 3(b) is that, the post must be classified by the Government by issuing a Notification as Scientific post. Once the Government issued Notification classifying any post as 'Scientific post', It is outside the purview of the reservation of posts for Scheduled Castes and Scheduled Tribes.

6. Mr. Sahu also fairly admits that, as of now, Government has not issued any Notification classifying any Scientific post. In the instant case, since the Government has not classified the post of Scientific Officer as 'Scientific post' by issuing a Notification, it falls within the category of reservation for Scheduled Castes and Scheduled Tribes in absence of any Notification to the contrary.

7. This apt, the Apex Court had occasion to deal with the situation similar to this in *Indrasawhney and others, petitioners, v. Union of India and others, respondents* 1992 Supp (3) SCC 217. In para 839, the Apex Court while dealing with the reservation of civil post and service under the Government of India pointed out that the application of the Rule of reservation may not be advisable in some of the posts like ;

(1) Defence Services including all technical posts therein but excluding civil posts.

(2) All technical posts in establishments engaged in Research and Development including those connected with atomic energy and space and establishments engaged in production of defence equipment.

(3) Teaching posts of Professors - and above, if any.

(4) Post in super-specialties in Medicine, engineering and other scientific and technical subjects.

(5) Posts of Pilots (and co-pilots) in Indian Airlines and Air India etc.

8. The Apex Court further observed that, it is for the Government of India to consider and specify the service and post to which the rule of reservation shall not apply. This would go to show that whether a particular post of technical or

otherwise comes within the purview of the reservation nor not, the Government is the sole authority to determine such issue by issuing Notifications.

9. In the instant case, admittedly, the post of Scientific Officer has not been classified by the Government as Scientific post as visualises under Section 3(b) of the Act, and therefore, it would meant that the post of Scientific Officer is not a Scientific post and comes within the purview of the reservation quota under the Act.

10. Petitioner has not challenged the reservation Act. Since there is a provision under the Act, the post of Scientific Officer must be deemed to be within the purview of the Act for reservation of vacancies in posts and services for Scheduled Castes and Scheduled Tribes, reserving of such post in terms of 100% roster point, cannot be faulted.

11. In the result, there is not merit in this writ petition, and the same is dismissed. Interim order dated 28.4.2000 stands vacated.