

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) 11404 OF 2018
[ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL)
NO.13781 OF 2012]

THE STATE OF UTTARAKHAND
& ANR.

...APPELLANT(S)

VERSUS

RADHEY SHYAM & ANR.

...RESPONDENT(S)

ORDER

1. Leave granted.

2. The respondent - writ petitioner who is a permanent resident of the State of Uttar Pradesh and a member of the Scheduled Caste was appointed as a Lecturer in D.S.B. Post Graduate College, Dehradun, Uttarakhand on 23rd July, 2008 as a reserved category candidate. The Director of the Higher Education, Uttarakhand by order dated 16th February, 2010 withheld payment of salary to the respondent - writ petitioner on the ground that he is not a domicile of Uttarakhand.

3. The writ petition filed by the respondent was allowed by the High Court of Uttarakhand giving rise to the present appeal.

4. We have heard the learned counsels for the parties.

5. The respondent - writ petitioner having admitted in his pleadings that he is a permanent resident of the State of Uttar Pradesh would not be entitled to any claim as a Scheduled Caste candidate so far as the appointment in Public Service in the State of Uttarakhand is concerned. The above position has been settled by a large number of decisions of this Court including the decision of the Constitution Bench of this Court in Marri Chandra Shekhar Rao vs. Dean, Seth G.S. Medical College & Ors.¹. The appointment of the respondent - writ petitioner, therefore, would not appear to be justified.

6. There are certain peculiar facts and circumstances of the case which, however, cannot be ignored. The respondent - writ petitioner has, by this time, worked for over a decade in the post in which he was initially appointed. There are materials on record to show that the respondent - writ petitioner had succeeded in securing an

1. (1990) 3 SCC 130

alternative employment as Lecturer in a College in the State of Uttar Pradesh which he declined as at that point of time he was also working as a Lecturer in the State of Uttarakhand.

7. Having regard to the long period of service rendered and the attendant facts and circumstances of the case we are of the view that the order of the High Court should not be interfered with by us.

8. Consequently and in the light of the above, this appeal is dismissed with the above observations and directions.

.....,CJI.
(RANJAN GOGOI)

.....,J.
(K.M. JOSEPH)

.....,J.
(AJAY RASTOGI)

NEW DELHI
NOVEMBER 27, 2018

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S) 11405 OF 2018
[ARISING OUT OF SPECIAL LEAVE PETITION (CIVIL)
NO.20555 OF 2017]

NEETU SAPRE **...APPELLANT(S)**

VERSUS

THE STATE OF MADHYA PRADESH
& ANR. **...RESPONDENT(S)**

ORDER

1. Leave granted.

2. The appellant had appeared in the Civil Services Examination conducted by the Madhya Pradesh Public Service Commission in the year 2012. She qualified in the written examination but was refused permission to appear in the interview on the ground that she did not possess the requisite Caste certificate issued by the Competent Authority. The appellant belongs to "Khatik" caste which is a Scheduled Caste in the States of Madhya Pradesh and Uttar Pradesh. She was originally a resident of the State of Uttar Pradesh and migrated to the State of Madhya Pradesh after marriage in the year 2007.

3. The writ petition filed by her challenging the aforesaid action of the Authority was dismissed by the High Court of Madhya Pradesh by the impugned order. Aggrieved, this appeal has been filed.

4. We have heard the learned counsels for the parties and have perused the order of the High Court under challenge. The High Court in taking the view that the writ petition merited dismissal held that the requirement of Rule 15(1) of the M.P. State Civil Services Examination Rules, 2008 (hereinafter referred to as "Rules") had not been complied with. Rule 15 (1) of the Rules is in the following terms:

"The candidate claiming any relaxation in age or any other concession must attach, with their application forms for the Main Examination, as photocopy of the appropriate certificate issued by the competent authority. A permanent caste certificate relating to Scheduled Castes, Scheduled Tribes or Other Backward Classes, issued by a Sub Divisional Officer (Revenue), who is authorized by the government of Madhya Pradesh to issue caste certificate must be attached compulsorily with the application form. In case of married women, the caste certificate held by their father alone will be accepted. If a candidate fails to produce permanent

certificate of caste and other certificates in original, at the time of interview, his candidature shall be rejected for which the candidate himself shall be responsible."

5. The appellant before us has raised a claim to be a member of the Scheduled Caste of the State of Madhya Pradesh belonging to "Khatik" caste on the basis of a Caste certificate issued by the Sub-Divisional Officer, Kurwai, (District Vidisha, Madhya Pradesh) dated 1st July, 1977. The date in the photocopy of the said certificate enclosed to the Memo of Appeal appears to be doubtful inasmuch as it is the appellant's own case that she had migrated to Madhya Pradesh in the year 2007 after her marriage.

6. Be that as it may, the Caste certificate in question clearly recites that it is not valid for service in the government of Madhya Pradesh. That apart, the certificate in question certifies the appellant to be a member of the Scheduled Caste on the basis of her marriage to one Sandeep Sapre, a resident of Kurwai, District Vidisha, Madhya Pradesh. The caste certificate relied upon by the appellant apparently does not conform to the

requirement of Rule 15(1) of the Rules so far as the married women are concerned.

7. The appellant also relies on a Certificate dated 19th October, 2011 issued by the Tahsildar (Sadar), Agra certifying that one Bhagwan Dass, whom the appellant's claims to be her father, is a member of the "Khateek" caste which is recognized as a Scheduled Caste in the State of Uttar Pradesh. This certificate has to be viewed in the context of the fact that the appellant admits to have migrated to the State of Madhya Pradesh after her marriage in the year 2007. If that is so, her earlier status as a Scheduled Caste in the State of Uttar Pradesh cannot be carried forward by her on her migration to the State of Madhya Pradesh so as to entitle her to claim the benefit of belonging to the Scheduled Caste of the State of Madhya Pradesh. The High Court, therefore, was right in rejecting the writ petition and in denying the reliefs sought by the appellant.

8. Consequently and in the light of the above the present appeal has to be dismissed which we hereby do. No costs.

.....,CJI.
(RANJAN GOGOI)

.....,J.
(K.M. JOSEPH)

.....,J.
(AJAY RASTOGI)

NEW DELHI
NOVEMBER 27, 2018

ITEM NO.103

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 13781/2012
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 15-11-2011
IN WP NO. 44/2010 PASSED BY THE HIGH COURT OF UTTARAKHAND AT
NAINITAL)

THE STATE OF UTTARAKHAND & ANR.

PETITIONER(S)

VERSUS

RADHEY SHYAM & ANR.

RESPONDENT(S)

WITH

SLP(C) NO. 20555/2017 (IV-A)

Date : 27-11-2018 These petitions were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s)
SLP(C) 13781/12

Ms. Rachana Srivastava, AOR
Ms. Monika, Adv.

SLP(C) 20555/17

Mr. Yadav Narender Singh, AOR
Mr. Pradeep Kr. Yadav, Adv.
Mr. Abhishek Singh, Adv.
For Ms. Manju Jetley, AOR

For Respondent(s)

Ms. Chandan Ramamurthi, AOR

Mr. Dinesh Kumar Garg, AOR
Mr. Dhananjay Garg, Adv.
Mr. Abhishek Garg, Adv.
Mr. Deepak Mishra, Adv.

Dr. Harsh Pathak, Adv.
Mr. Farrukh Rasheed, AOR
Mr. Siddharth Shukla, Adv.
Mr. Mohit Choubey, Adv.

Mr. Sunny Choudhary, AOR

UPON hearing the counsel the Court made the following
O R D E R

SLP(C) NO.13781/2012

Leave granted.

The appeal is dismissed in terms of the signed
order.

SLP(C) NO.20555/2017

Leave granted.

The appeal is dismissed in terms of the signed
order.

[VINOD LAKHINA]
AR-cum-PS

[ANAND PRAKASH]
BRANCH OFFICER

[TWO SIGNED ORDERS ARE PLACED ON THE FILE]