DR. SURINDER SINGH JAMWAL AND ANR. A

v.

THE STATE OF JAMMU AND KASHMIR AND ORS.

JULY 17, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.] B

Service Law—Recruitment—Adhoc appointment—Continuation for more than 13 years—Claim for regularisation—Writ—Dismissal by High Court—Appeal by adhoc appointees—Held the settled legal position is that recruitment should be governed by statutory rules—Regular recruitment should C *be made by Public Service Commission—Adhoc appointments are only temporary appointments pending regular appointments without any right to regularisation of service—Directions issued to State Government to notify vacancies to Public Service Commission—Adhoc appointees to continue till regularly selected candidates are appointed—Age relaxation for adhoc appointees should be considered so that they can apply for recruitment—Life of Panel* D *of selected candidates having expired due to suspension order of this Court the same was directed to be extended for the period during which stay order was in operation.*

J & K Public Service Commission **v.** *Dr. Narinder Mohan*, **[1994] 2 SCC 630, relied on.** E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9521 of 1996.

From the Judgment and Order dated 4.9.95 of the Jammu and Kashmir High Court in L.P.A. (S.W.) No. 63 of 1990. F

D.D. Thakur and L.R. Singh for the Appellants.

Ashok Mathur for the State.

Ranjit Kumar, Ms. Anu Mohla, for the Respondents. G

The following Order of the Court was delivered :

Leave granted, we have heard counsel on both sides.

The controversy raised in this case is squarely covered by the judg- H

ment of this Court reported in *J.& K. Public Service Commission* v. *Dr. Narinder Mohan*, [1994] 2 SCC 630. It is not in dispute that the appellants were recruited on *ad hoc* basis and have been continuing as such. It is their contention that since they had put in more than 13 years of service they are entitled to regularisation of service and approached the High Court for direction to regularise their services. The High Court has followed the ratio in the above judgment and dismissed the petition. In the light of the judgment of this Court the settled legal position now is that the recruitment to the service should be governed by the appropriate statutory rules. Under the rules the regular recruitment to the posts shall be made by the Public Service Commission. Consequentially, the *ad hoc* appointments would be only temporary appointments *de hors* the rules, pending regular recruitment without conferring any right to regularisation of service. This Court in *Narinder Mohan's* case (supra) had given the following directions:

> "Accordingly, we set aside the directions issued by the Division Bench of the High Court and confirm those of the Single Judge and direct that State Government of the J & K to notify the vacancies to the PSC which would process and complete the selection, as early as possible, within a period of six months from the date of the receipt of this order. The State Government should on receipt of the recommendation, make appointments in the order mentioned in the selection list within a period of two months thereafter. Since the respondents have been continuing as *ad hoc* doctors, they shall continue till the regularly selected candidates are appointed. They are also entitled to apply for selection. In case any of the respondents are barred by age, the State Government is directed to consider the cases for necessary relaxation under Rule 9(3) of the age qualification. If any of the respondents are not selected, the *ad hoc* appointment shall stand terminated with the appointment of the selected candidate. The direction sought for by Dr. Vinay Rampal cannot be given. His appeal is accordingly dismissed and the State appeal is also dismissed. The appeals of the PSC are accordingly allowed but in the circumstances parties are directed to bear their own costs."

Following the above directions, there shall be a direction to the State Government to notify the vacancies to the Public Service Commission within a period of two months from today. On notification so made, it

would be open to the appellants to apply for regular recruitment. It would be for the PSC to consider the respective claims of the candidates who have applied for and to make necessary selection according to rules. On selection so made and recommendation made to the State Government, the State Government will make appointments as per rules within a period of two months from the date of the receipt of the list of the selected candidates from the PSC. The PSC is directed to complete the process of the selection within a period of three months from the date of the receipt of the requisition. The State Government after receipt of the lists shall make the necessary appointments in accordance with law. Till then the appellants would continue only on *ad hoc* basis till the regularly selected candidates are appointed.

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It is obvious that the appellants have become barred by age for the direct recruitment. It would, therefore, be necessary that the State Government would relax the necessary age qualification so as to enable them to apply for and seek recruitment through PSC.

D

The contesting respondents who have come on record have stated that the panel stands expired during the interregnum due to the order of suspension granted by this Court. Under these circumstances, the life of the panel is extended for the period during which the stay order is in operation.

E

The appeal is accordingly disposed of. No. costs.

T.N.A. Appeal disposed of.