

936

Governor of Pondicherry) and his Council of Ministers act under the general control of and are under an obligation to comply with any particular direction issued by the President. Further, the administrator (Lt. Governor of Pondicherry) while acting under the scope of the authority given to him under Article 239 of the Constitution would be the Central Government.

15. The Central Government has issued several orders and circulars extending the benefit to SC candidates of other States in the matter of employment in the U.T. of Pondicherry which need to be noticed. A.D.O. letter was sent by the Joint Secretary, Government of India, Ministry of Home Affairs, to the Lt. Governor of Pondicherry on 4.2.1974 and the same is being reproduced below:

16

"So far as reservations for SCs/STs candidates in posts/ services under the Central Govt. are concerned, the concession is admissible to all SCs and STs which have been recognized as such under the orders issued from time to time irrespective of the State/ Union Territory in relation to which particular castes or tribes have been recognized as SCs/ Tribes. Thus for a reserved vacancy in a Central Govt. office located in a State, any SC candidate throughout the country would be eligible. Since Pondicherry is a Union Territory all orders regarding reservations for Scheduled Castes/ Tribes issued by the Dept. of Personnel in respect of posts/ services under the Central Govt are applicable to posts/services under the Pondicherry Admn. Also as such a SC/Tribe candidate from outside Pondicherry should also be eligible for a vacancy reserved for SCs/STs in the Union Territory

After receipt of the aforesaid letter from Government of India, the General Administrations Department of the Government of Pondicherry issued a Government Order dated 16.2.1974 which reads as under:

"In view of the clarifications of the Govt. of India all Secretariat Departments, Heads of Departments/Offices are informed that SCs/Tribes candidates from outside the Union Territory of Pondicherry should also be considered for appointment to posts reserved for SCs/Tribes in this Admn. These instructions should be followed strictly".

The Government of Pondicherry also issued a circular on 6.1.1973 issuing clarifications regarding two points and the second one was regarding the Government Order dated 16.2.1974 (reproduced above), Paras 2 & 3 of this circular read as under:

"2. The reference second cited is again brought to notice for information and guidance. It has been stated therein that for a reserved vacancy in a Central government Office located in a State any Scheduled Caste candidate throughout the country would be eligible. It has therefore been clarified that since Pondicherry is a Union Territory, all orders regarding reservation for Scheduled Caste/Scheduled Tribe issued by the Department of Personnel in respect of posts/services under the Central Government are applicable to posts/services under the Pondicherry Administration also. Hence, as such, a Scheduled Caste/Scheduled Tribe candidate from outside Pondicherry would also be eligible for a vacancy reserved for Scheduled Caste/Scheduled Tribe in the Union Ter-

SC ST II

S. Pusiga v. Sivachandrasegular

3. However in the case of other benefits like scholarships, admission to educational institutions etc. the benefits should be confined to the Scheduled Caste of this Union Territory."

It appears that Government of Pondicherry sought some clarifications from the Central Government regarding admissibility of reservation benefit to migrant SC/ST candidates vide their letter dated 21.9.1995. This was replied to by the Ministry of Welfare, Government of India vide their letter dated 5.10.1995 and the relevant part thereof is reproduced below:

"I am directed to refer to your letter No. A. 77265/12/23/CS(EC)/95 dated 21.9.1995 on the above subject and to say that according to para 9 of MHA (Now DoPT) OM No. 42/21/49-NGS dt. 23.1.1952, the Central Government instructions apply *mutatis mutandis* to all Part C States (now UTs) as well. Such UTs have therefore to follow all Central Government instructions.

In view of the above position explained above, Pondicherry being UT, services under the Administration will be open to all the SC/ST irrespective of their State of origin. Further in regard to posts filled on all India basis through UPSC or SCC on open competition basis, SC/ST candidates irrespective of their state of origin can apply. In regard to the posts filled through SSC, Madras all the SC/ST candidates from the southern region will be eligible to apply."

The Government of Pondicherry circulated the aforesaid letter of Government of India to Secretaries of all Departments and Heads of Departments/Offices vide its G.O. Ms.

16. These documents show that Government of Pondicherry has throughout been proceeding on the basis that being a Union territory, all orders regarding reservation for SC/ST in respect of posts/services under the Central Government are applicable to posts/services under the Pondicherry administration as well. Since all SC/ST candidates which have been recognized as such under the orders issued by the President from time to time irrespective of the State/Union territory, in relation to which particular castes or tribes have been recognized as SCs/STs are eligible for reserved posts/services under the Central Government, they are also eligible for reserved posts/services under the Pondicherry administration. Consequently, all SC/ST candidates from outside the U.T. of Pondicherry would also be eligible for posts reserved for SC/ST candidates in Pondicherry administration. Therefore, right from the inception, this policy is being consistently followed by the Pondicherry administration whereunder migrant SC/ST candidates are held to be eligible for reserved posts in Pondicherry administration.

17. We do not find anything inherently wrong or any infraction of any constitutional provision in such a policy. The principle enunciated in *Murri Chandra Shukhar Rao (supra)* cannot have application here as U.T. of Pondicherry is not a State. As shown above, a Union territory is administered by the President through an administrator appointed by him. In the context of Article 246, Union territories are excluded from the ambit of expression "State" occurring therein. This was clearly explained by a Constitution Bench in *T.M. Kannan*: