

Disputes Act, a direction for reinstatement shall not ordinarily be issued, in the event, the termination of services becomes co-terminus with the scheme.

22. For the reasons aforementioned, the impugned judgment cannot be sustained, which is set aside accordingly. The appeals are allowed. However, in the facts and circumstances of this case, there shall be no order as to costs. *Appeal allowed.*

[2005 (1) SC-SLR 480]

SUPREME COURT

(From Central Administrative Tribunal, Madras)

R.C. LAHOTI, CJI, K.G. BALAKRISHNAN AND G.P. MATHUR, JJ.

Civil Appeal Nos. 6-7 of 1998 With Civil Appeal Nos. 4-5 of 1998, decided on February 11, 2005

S. Pushpa & Ors. Appellants

Versus

Sivachanmugavelu & Ors.

Respondents

Service Laws—Reservation—Appointment and selection of migrant Scheduled Caste candidates against the quota reserved for Scheduled Castes—Neither unconstitutional nor invalid.

If a State or Union territory makes a provision whereunder the benefit of reservation is extended only to such Scheduled Castes or Scheduled Tribes which are recognized as such, in relation to that State or Union territory then such a provision would be perfectly valid. However, there would be no infraction of clause (4) of Article 16 if a Union territory by virtue of its peculiar position being governed by the President as laid down in Article 239 extends the benefit of reservation even to such migrant

Scheduled Castes or Scheduled Tribes who are not mentioned in the schedule to the Presidential Order issued for such Union territory. The U.T. of Pondicherry having adopted a policy of Central Government whereunder all Scheduled Castes or Scheduled Tribes, irrespective of their State are eligible for posts which are reserved for SC/ST candidates, no legal infirmity can be ascribed to such a policy and the same cannot be held to be contrary to any provision of law

For the reasons discussed above, we are of the opinion that there has been no violation of any constitutional or any other legal provision in making selection and appointment of migrant Scheduled Caste candidates against the quota reserved for Scheduled Castes on the post of Selection Grade Teachers. The view to the contrary taken by the Tribunal cannot, therefore, be sustained and has to be set aside.

[Paras 21 and 22]

Case-law.—1970 (3) SCC 130; 1994 (5) SCC 244; 1968 (2) SCR 103; AIR 1968 SC 367—Relied on; 1997(7) SCC 339.

IMPORTANT POINT

Clauses (1) and (2) of Article 16 guarantee equality of opportunity to all citizens in the matter of appointment to any office or of any other employment under the State. Clauses (3) to (5), however, lay down several exceptions to the above rule of equal opportunity.

Counsel:

V. Balachandran, Advocate, for the appellant (C.A. Nos. 6-7/98), V.R. Reddy, Sr. Advocate, V.G. Pragasam, Advocate, for the Appellant (C.A. Nos. 4-5/98); M.N. Rao, Sr. Advocate, M.A. Chinnaswamy, Advocate, for the Respondents; K.V. Vishwanathan, K.V. Venkataraman, B. Ragunath and

K.V. Vijayakumar, Advocates, for the Applicant (I.A. Nos. 9-10 in C.A. Nos. 4-5/98)

JUDGMENT

G.P. Mathur, J.—These appeals, by special leave, have been preferred against the judgment and order dated 5.11.1996 of the Central Administrative Tribunal (Madras Bench) by Pondicherry comprises former four French settlements in India, viz., Pondicherry, Karaikal, Mahe and Yanam. Karaikal is situate within the territorial boundary of State of Tamil Nadu; Mahe is situate within the territorial boundary of State of Kerala and Yanam is situate within the territorial boundary of State of Andhra Pradesh. Though *de-facto* transfer of these four French settlements to Government of India took place in the year 1954; they legally merged with the Union of India with effect from 16.8.1962 by the Eighteenth Amendment to the Constitution. These four settlements were constituted as U.T. of Pondicherry under Government of Union Territories Act, 1963 (Act No. 20 of 1963).

5. Article 341 of the Constitution which is important for the purpose of decision of the present case reads as under:

"341. *Scheduled Castes.*—(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of

Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

The President of India exercising power under Article 341(1) issued an order known as Constitution (Pondicherry) Scheduled Castes Order, 1964, Paragraph 2 of this Order read as under:

"2. The castes, races or tribes or parts of or groups within castes, races or tribes specified in the schedule to this Order shall for the purposes of the Constitution, be deemed to be Scheduled Castes in relation to the U.T. of Pondicherry so far as regards members thereof resident in that Union territory."

The schedule mentions 15 castes which are to be deemed to be Scheduled Castes in relation to the U.T. of Pondicherry.

6. Learned counsel for the appellants has submitted that the decisions rendered in *Marri Chandra Rao* (*supra*) which has been the sheet anchor of the case of the contesting respondents (applicants before the Tribunal) and which has been relied upon by the Tribunal related to a case where the migrant was from one State to another State (from Andhra Pradesh to Maharashtra) and it can have no application to a case where the migration of a SC person is from a State to an adjoining or contiguous Union territory, as is the case here. The areas included in the U.T. of Pondicherry being very small enclaves and being contiguous and surrounded by large States, the principle which may be applicable in the case of migration from one State to another State cannot