

22. 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.

23. The appeals are accordingly allowed and the judgment and order dated 5.11.1996 of the Central Administrative Tribunal (Madras Bench) is set aside. *Appeals allowed.*

[2005 (1) SC-SLR 490]

SUPREME COURT

(Under Art. 32 of the Constitution of India)

N. SANTOSH HEGDE,
B.N. SRIKRISHNA AND
P.K. BALASUBRAMANYAN, JJ.
I.A. Nos. 23, 26, 29, 31-34 and 36 in
Writ Petition (C) No. 79 of 1997,
decided on February 24, 2005

Suresh Chandra Sharma Petitioner

Versus

Chairman, UPSEB
& Ors.

Respondents

Service laws—Transfer and posting—Interference with autonomous functioning of Board now the corporations—Supreme Court issued directions to avoid undue interference.

That there is imperative necessity to act urgently, is born out by the facts. Considering that the transfers are likely to be made in a couple of months, we think that urgent steps are needed to be taken. We therefore, direct as follows:

1. No Minister of the State of U.P., nor any Government officer

shall interfere with the transfers/postings of the officers in any of the Corporation named above.

2. All postings/transfers of the officers/staff of the aforesaid Corporations shall be monitored by an independent committee consisting of the following persons:

- (i) Shri S. Venkatanarayanan (IAS) Retd. Former Chairman, National Power Finance Corporation, as Chairman;
- (ii) A member of the U.P.S.C. to be nominated by the Chairman of the U.P.S.C.;
- (iii) A nominee of the Chairman of the Central Electricity Authority;
- (iv) A nominee of the Comptroller and Auditor General; and
- (v) A nominee of the Central Vigilance Commission.

3. All proposals for transfers/postings of officers and staff of the aforesaid Corporations should, before finalization, be placed before the independent committee which shall examine and approve the transfers/postings on merits and in the light of the guidelines for transfer policy of officers. (see at Page 495 of Volume IA of the Paper Book).

4. No transfer/posting which is disapproved by the said Committee shall be made by the Board of Directors of any of the aforesaid eight Corporations.

5. The Committee shall make a report to this Court containing its observations with regard to the transfers/postings of officers and staff, if any, made for the year 2005, after all such cases have been considered and decisions thereupon taken.

The Chairman, Union Public Service Commission, the Chairman,

Central Electric Authority, the Comptroller and Auditor General and the Central Vigilance Commission shall appoint one nominee each to be a member of the independent Committee referred to in paragraph 2 of this order. The said nominations shall be made within a period of 3 weeks of receipt of a copy of this order.

[Paras 8 and 9]

Counsel:

Gopal Subramaniam, Sr. Advocate, (AC), Dr. S. Murlidhar, Asheesh Jain, Advocates, for the Petitioner; Manoj Swarup, Pradeep Misra, Punit Dutt Tyagi, Arvind Kumar Sharma, Anil Kumar Jha, C.V.S. Rao, B.K. Prasad, Advocates, for the Respondents.

Order

N. Santosh Hegde, B.N. Srikrishna & P.K. Balasubramanyan, JJ.—By an order made on 31st January, 1998, a High Powered Committee came to be appointed to carry out investigations into five areas, as indicated in the order. The High Powered Committee was initially headed by Shri S. Venkatanarayanan (IAS) Retd., Former Chairman, National Power Finance Corporation, who was substituted later on by Shri P.K. Kaul, former Cabinet Secretary of the Government of India. The High Powered Committee (hereinafter referred to as the "Kaul Committee"), with the expert advice and assistance of M/s. Central Power Research Institute, Bangalore and Indian Institute of Management, Lucknow, made an indepth investigation into the areas of reference and produced a Report in two volumes.

2. One of the issues on which the Kaul Committee had adversely commented is that transfers and postings of officers and staff are not made in the State Electricity Board in

a transparent and accountable manner. Although, guidelines for transfer policy of officers of the State Government (see at page 495 Volume IA of the Paper Book), are supposed to be the transfer policy of such officers of the Board also, they have been observed in breach. The State Government has power under the Electricity Act to issue directives in the nature of policy directives, but with Board's Chairman and top Executive heads backed by political bosses, the State Government appears to be exercising unbridled power of interference in the day to day working of the Electricity Board. This interference in transfers and postings with political patronage has totally destroyed the autonomous nature of the Electricity Board, which has been identified as a serious malaise affecting the functioning of the Electricity Board.

3. The original Electricity Board has now been split into U.P. Power Corporation Limited (for distribution and Transmission), with five subsidiary distribution companies, namely, Kanpur Electric Supply Company Limited (KESCO), Purvanchal Vidyut Vitaran Nigam Limited, Varanasi, Madyanchal Vidyut Vitaran Nigam Limited, Lucknow, Paschimanchal Vidyut Vitaran Nigam Limited, Meerut and Dakshinanchal Vidyut Vitaran Nigam Limited, Agra. Thermal generation is entrusted to U.P. Rajya Vidyut Utpadan Nigam Limited and Hydro generation to U.P. Jal Vidyut Nigam Limited. All these companies are Government companies, though under the provisions of the Electricity Act, yet independent bodies subject only to the directives of the State Government only on matters of general policy.

4. That there has been large scale interference with the autonomous