

fake allottees and the wrongful gain made by the accused persons out of such allotment. The contention of the learned counsel for the petitioners that the F.I.R. has been registered after enquiring into the detailed facts in which every case has been gone into and the custodial interrogation of the petitioners is purposeless as nothing is to be recovered from them, has no force. Their contention in the light of glaring irregularities/illegalities in the allotment of land to persons not entitled to under law to get allotment is also without merit. The facts of the case *prima facie* indicate *inter se* connection of the accused persons named in the F.I.R.

(14) In the light of the facts narrated above, no case is made out for concession of bail under section 438 of the Code of Criminal Procedure in favour of the petitioners. The petitions accordingly stand rejected.

R.N.R.

Before R.S. Mongia & K.C. Gupta, JJ

CHANDIGARH ADMINISTRATION AND OTHERS,—*Petitioners*

versus

THE CENTRAL ADMINISTRATIVE TRIBUNAL AND OTHERS—
Respondents

C.W.P. No. 8319-C of 2000

4th September, 2000

Constitution of India, 1950—Art. 226—Government of India instructions dated 26th May, 1986 and 18th/31st August, 1992—Reserved category candidates of respective States applying for the post of A.S.Is in the U.T. Chandigarh—Candidates not belonging to reserved category as notified by the U.T. and their certification also not by an Officer of the U.T.—Whether entitled to seek employment on the basis of reservation in the U.T.—Held, yes—Certification by an Officer of any State regarding a person belonging to reserved category holds good for U.T. unless there is a case of forgery or the like.

Held that the reading of the instructions dated 26th May, 1986 issued by the Government of India takes the matter out of pale of any controversy. It is mentioned in so many words that in respect of employment against any post in a Union Territory, the S.C./B.C./S.T. of any other State in the country would be *ipso-facto* entitled to seek employment on the basis of reservation. This would necessarily mean

that the certification by an officer of the respective State should be honoured by Union Territory unless of course there is a case of forgery or the like. If the Union Territory Administration is satisfied that the certificate issued by a particular incumbent regarding his belonging to S.C./S.T./B.C. of a particular State is genuine, then the consequences are to flow therefrom by giving appointment against the reserved post. The latter instructions of 1992 make the matter further clear wherein it is mentioned that the benefit of reservation against a reserved category should be confined to a particular State when it is a question of employment under a State but in case of employment under Government of India/Union Territory, any certificate from any State regarding a person belonging to a particular S.C./S.T./B.C. should hold good for Union Territory.

(Para 5)

Lisa Gill, Advocate, *for the petitioners.*

R.A. Ram, Advocate *for respondent Nos. 2 to 6.*

JUDGMENT

R.S. Mongia, J (Oral)

(1) The point involve in the present writ petition is as to whether a person who seeks benefits of reservation against a post reserved for Scheduled Caste/Backward Class in a Union Territory (in the present case Union Territory, Chandigarh) is required to be one of the Scheduled Caste/Backward Class from the list, if at all, issued by a Union Territory, Union of India and has also to get a certification in that regard from an officer so appointed in a particular Union Territory.

(2) The aforesaid question arises in the present case as the private respondents herein, who were the petitioners before the Central Administrative Tribunal, belong to reserved categories as S.C./O.B.C. declared by the States of Punjab, Haryana and Himachal Pradesh. In response to advertisement for the post of A.S.Is. in the Union Territory, Chandigarh Police, they had applied against reserved category. They had produced certification from the respective officers of the respective States that they belong to a particular Scheduled Caste or Backward Class. They were selected and even sent for medical examination, but before appointment orders could be issued to them, the Union Territory Administration took the view that since the petitioners before the Tribunal (now respondents) did not belong to any of the Scheduled Caste or Backward Class as notified by the Union Territory and their certification was also not by an officer of the Union Territory, Chandigarh, they were not entitled for appointments. This led them

to file an O.A. before the Central Administrative Tribunal, which has been decided in their favour,—*vide* impugned order dated 23rd February, 2000. Hence, the present writ petition.

(3) Before we come to the merits of the matter, in passing, we may observe that petitioners Nos. 1 and 3, before the Tribunal, namely, Surinder Kumar and Rakesh Kumar has earlier been appointed by direct recruitment as Constables on the basis of reservation in Union Territory and they were so appointed on the basis of the same certificate as belonging to a particular backward class of other States, which they produced now. It may further be observed that petitioners Nos. 1, 2 and 3, namely, Surinder Kumar, Jaswinder Kaur and Rakesh Kumar, before the Tribunal, even belong to one or the backward class as notified by the Union Territory, Chandigarh.

(4) The Tribunal, in a nut shell, held that for appointment in any Union Territory in the country, all Scheduled Castes/Backward Classes/Scheduled Tribes of any State in the country are eligible to seek appointment on the basis of reservation for Scheduled Caste/Backward Class etc. as the case may be. The matter should not detain us at any length inasmuch as learned counsel for the private respondents brought on record two circulars issued by the Government of India dated 26th May, 1986 and 18th/31st August, 1992. The Tribunal did not directly consider these circulars as, perhaps, these were not cited before the Tribunal, but in the judgment which is relied upon by the Tribunal, the instructions dated 26th May, 1986 were taken into consideration. The view which has been taken by the Tribunal is in consonance with these instructions. It will be opposite to reproduce the entire instructions dated 26th May, 1986 and 18th/31st August, 1992 :—

“INSTRUCTIONS DATED 26th May, 1986

No. B.C. 12017/9/86-SC & BCD.I (Ch. Admn.)

Government of India/Bharat Sarkar

Ministry of Welfare/Kalyan Mantralaya

New Delhi dated 26th May, 1986

To

The Home Secretary

Chandigarh Administration (Home-I)

Chandigarh

Sub : Issue of Scheduled Caste.Scheduled Tribe certificate to

migrants from other States/U.T.'s Grant of benefits/
concessions to the migrated persons—Clarification of.

Sir,

I am directed to refer to your letter No. 4731-IB(7)-86/14080, dated 28th July, 1986 on the above subject and to say that in respect of employment under the Central Government there is no discrimination between Scheduled Castes and the Scheduled Tribes of one State or another. In respect of employment under the Union Territories also legally, the position would be the same. Thus, in the case under reference, a recognised Scheduled Caste/Scheduled Tribe of any other State/Union Territory would be entitled to the benefits and facilities provided for Scheduled Castes and Scheduled Tribes in the services under the Union Territory of Chandigarh. All cases may be finalised in light of the position clarified above. Past case may not be re-opened as there may be complications in deciding those cases. Any how, for further clarification of service the matter may be taken up with Department of Personnel and Training as they are dealing with the subject.

INSTRUCTIONS DATED 18th/31st August, 1992

G.I. Dept. of Telcom. I.R. No. 1-13—[92 SCT], dated 18th/31st August, 1992

Subject : Reservation benefits admissible to SC/ST candidates migrated to the States other than their State of origin.

I am directed to refer to Ministry of Home Affairs Circular No. 35-I/72-RU (SCT) dated 2nd May, 1975 Para 2 (II) which states that a person migrates from one State to another State, he can claim to belongs to SC/ST only in relation to the State to which he originally belonged and not in respect of States to which he has migrated. This paragraph does not clarify the position in regard to this reservation benefits to be extended to SC/ST in case of Central Government establishment.

2. Many representations have been received in this Office for clarifying the status of reservation benefits in the Central Government to those who have migrated to the States other than their State of origin. The clarification in this regard was sought from Ministry of Welfare and from Ministry of Home Affairs (Department of Personnel and Training). It is clarified according to the instructions contained in Letter No. 16014/1/82-SC and

BCD-I, dated 6th August, 1984 and 22nd February, 1985, a Scheduled Caste or Scheduled Tribes person on migration from the State of his own origin to another State will not lose his status as SC/ST but will be entitled to the concessions/benefits admissible to the SC/ST from the State of his origin and not from the State where he has migrated.

3. It is clarified that above instructions are applicable only for the State Government services admissible in State Government's educational institutions etc. All Scheduled Castes and Scheduled Tribes are treated alike for jobs in the Central Government. In view of this clarification SC/ST persons employed in Central Government services in the State/Union Territories are entitled to get the benefits admissible to them. Since Department of Telecommunication is Central Government, the benefits admissible to SC/ST persons under the Central Government should continue to be extended to SC/ST person in the Department to those also who have migrated from the State of their origin to another State.

4. The cases pending for want of this clarification, if any, should be settled, may be of employment or promotions, under intimation to this office.

5. This circular is being issued with the concurrence of Joint Secretary (A&P) and L.O. (SCT) and Adviser (HRD)."

(5) The reading of the instructions dated 26th May, 1986 takes the matter out of pale of any controversy. It is mentioned in so many words that in respect of employment against any post in a Union Territory, the S.C./B.C./S.T. of any other State in the country would be *ipso facto* entitled to seek employment on the basis of reservation. This would necessarily mean that the certification by an officer of the respective State should be honoured by Union Territory unless of course there is a case of forgery or the like. If the Union Territory Administration is satisfied that the certificate issued by a particular incumbent regarding his belonging to S.C./S.T./B.C. of a particular State is genuine, then the consequences are to flow therefrom by giving appointment against the reserved post. The latter instructions of 1992 (*Supra*) make the matter further clear wherein it is mentioned that the benefit of reservation against a reserved category should be confined to a particular State when it is a question of employment under a State but in case of employment under Government of India/Union Territory, any certificate from any State regarding a person belonging to a particular S.C./S.T./B.C. should hold good for Union Territory.

(6) In these circumstances, we are of the view that no fault can be found with the view taken by the Tribunal. The writ petition is dismissed. Resultantly, the stay order dated 7th July, 2000 shall automatically stand vacated.

R.N.R.