

CASE NO.:
Appeal (civil) 2450 of 2007

PETITIONER:
Devendra Singh & Ors

RESPONDENT:
State of U.P. & Ors

DATE OF JUDGMENT: 11/05/2007

BENCH:
Tarun Chatterjee & B. Sudershan Reddy

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NO. 2450 OF 2007
(Arising out of SLP(c) No. 16232 of 2004)
With
CIVIL APPEAL NO. 2448 OF 2007
(Arising out of SLP(c) No. 26109 of 2004)

B.SUDERSHAN REDDY,J.

Leave granted.

2. These appeals have been preferred against the common judgment and order of the Allahabad High Court dated 14.5.2004 passed in Special Appeal No. 461 of 2004.

3. We have elaborately heard the learned counsel for the parties and perused the impugned judgment and the material made available on record.

4. The facts leading to filing of these appeals are not required to be noticed in detail for a very short and simple question falls for consideration viz. as to whether the authorities were right in not selecting the appellants to undergo B.T.C. Training Course, 2004.

5. The State of Uttar Pradesh as a measure of policy decision has decided to arrange the Special BTC Training Course for a period of six months to as many as 46,189 candidates possessing B.Ed./L.T. course. The National Teachers Education Board accorded its approval to the proposal submitted by the State of Uttar Pradesh for arranging the Special BTC Training Course for a period of 6 months to all those candidates with a requisite qualification of B.Ed./L.T. course. The Government order dated 14.1.2004 makes it abundantly clear it is a Special BTC Training Course, 2004 which is a programme of training for six months, including a three months practical schedule and in no manner deals with any selection and appointment of Assistant Teachers in the Basic Schools run by the U.P. Basic Education Board in the State of Uttar Pradesh. Be it noted that none of the appellants in these appeals could secure admission to Special BTC Training Course, 2004. Their case is that they should be given preference in admission to Special BTC Course inasmuch as they had already appeared for

selections in Special BTC Course, 2001. Their further case is that the appointments should be made on the basis of year wise training course passed by the candidates, and the candidates who had passed the required training course earlier be placed above than those who had passed the training later.

6. In order to resolve the controversy it is just and necessary to notice the salient features of the policy decision of the Government of Uttar Pradesh dated 14.1.2004. It is clear from a bare reading of the policy that the Government had resolved to arrange the Special BTC Training Course spread over a period of six months to all those 46,189 B.Ed./L.T. qualified candidates. The selection is for the purposes of imparting training and not recruitment into any service as such. Only such candidates who completed their training of B.Ed./L.T. as regular students in universities recognized by the National Teachers Education Board, recognized colleges and training institutes conducted by the State Government/Central Government alone were eligible for the selection into the course. The policy provides the age of the applicant must be minimum of 16 years and not more than 35 years as on 1st July, 2004. However, some relaxation has been made in favour of scheduled caste, scheduled tribe, backward class candidates and others with which we are not concerned in this case. The most important feature of the policy is that a State level merit list is required to be prepared on the basis of percentage of marks obtained in High School considering the rules regarding reservation. The policy directs the payment of stipend of Rs. 2500/- per month to the selected candidates for the special BTC training until "he is duly appointed on the post of Assistant Teacher in the basic school after passing the written and practical examinations conducted by the Registrar, Departmental Examinations, Uttar Pradesh and obtaining the required certificate, under the control of State Council for Education Research and Training, on completing the required training in the merit process."

7. The Government order dated 14.1.2004 was amended vide Government order dated 20.2.2004 even while the writ petition filed by the appellants herein pending before the learned Single Judge. The amendments made C.P.Ed., B.P. Ed. and D.P.Ed. qualified candidates also to be eligible along with B.Ed. and L.T. candidates provided they have taken training as institutional candidates from recognized universities and the State colleges, training colleges. The maximum age limit was extended to 40 years with exemption to reserved category candidates.

8. The record discloses that the primary contention of the appellants before the learned Single Judge was that the maximum age should be 45 years as provided for in the 1998 selections of Special BTC and that those candidates who were eligible to appear in the 2001 selections should be given exemptions on the ground that National Council had not imposed any restriction with regard to the maximum age while granting approval to the said course. These contentions were rejected by the learned Single Judge as well as by the Division Bench.

9. In these appeals the said contentions are not pressed. The learned counsel for the appellants mainly argued that the merit list should be arranged in such a manner so as to provide year wise list on the basis of B.Ed. training course or the other training courses as the case may be for the purposes of selection to the Special BTC Training Course, 2004. The learned counsel mainly relied upon the provisions of the U.P. Basic Education (Teachers) Service Rules, 1981 (for short 'the Rules') in support of his submission. Rule 14 of the Rules provides for determination of vacancies and preparation of list for appointment by direct recruitment to the post of Mistress of Nursery Schools and Assistant Master or Assistant Mistress of Junior Basic Schools. Rule 14 was amended by Notification dated 28.6.1993. Sub-rule (4) of Rule 14 as it stood prior to its substitution provided that the names of the candidates in the list prepared under sub-rule (2) shall be arranged in such manner that the candidates who have passed the required training course earlier in point of time shall be placed higher than those who have passed the said training course later, and the candidates who have passed the training course shall be arranged in accordance with the quality point marks specified in the appendix. The High Court while dealing with the rules in response to the submissions made by the appellants found that sub-rules (3) to (6) were deleted by Notification dated 6.8.1997 and the amended rules do not provide for any exemption and the selections were required to be based only upon the training qualification. It is for that reason the High Court found that there is no question of arranging the list in such a manner that the candidates who have passed the required training course earlier in point of time shall be placed higher than that of those who have passed the said training course later.

10. The learned counsel for the appellants relying upon the statement made in the counter affidavit filed in these appeals wherein it is conceded that sub-rules (3) to (6) of Rule 14 are not deleted submitted that the matter should be sent back for re-consideration of the High Court by duly applying the effect of sub-rules (3) to 6 of Rule 14 of the Rules. The submission was that the merit list is required to be prepared in accordance with sub-rules (3) to (6) of Rule 14 of the Rules. The submission in our considered opinion is totally misconceived. We have already noticed that the U.P. Basic Education (Teachers) Service Rules, 1981 deal with the post training scenario. The Rules deal with the selection and appointment of teachers from amongst the candidates already possessing the training qualifications. The Rules do not deal with the selection of the candidates into Basic Training Course. The reliance placed upon the said Rules by the appellants in support of their contention is totally untenable and unsustainable. These Rules do not have any bearing in the matter of selection of candidates into Basic Training Course, 2004. The policy decision of the Government dated 14.1.2004 deals with the arrangement of the Special BTC Training Course for the period of six months for those 46,189 B.Ed./L.T. qualified candidates. The process of selection of the candidates for the said training and the arrangement of the training is required to be conducted in accordance with the guidelines,

directions, conditions and restrictions incorporated thereunder. None of the appellants qualified themselves for undergoing the said training course inasmuch as they were not selected as they were not found meritorious or over aged as the case may be. It is not demonstrated as to how the appellants were entitled for selection to undergo Special BTC Training Course, 2004. The validity of the policy decision dated 14.1.2004 is not impugned in these appeals.

11. No other contention is urged.

12. For all the aforesaid reasons we find no merit in these appeals and they are accordingly dismissed.

13. We make no orders as to costs.

JUDIS