

NANDKUMAR NARAYANRAO GHODMARE

A

v.

STATE OF MAHARASHTRA AND ORS.

OCTOBER 30, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

B

Service Law :

Appointment—Appellant handicapped because of colour blindness—Selection by Public Service Commission—Appointment not made due to handicap—Held, appellant may be considered for appointment on suitable post.

C

The appellant was handicapped because of colour blindness. He was selected by the Public Service Commission; but could not be appointed due to his handicap. Having failed before the Maharashtra Administrative Tribunal, the appellant filed the appeal by special leave.

D

Allowing the appeal, this Court

HELD : It would be just and proper that the Government should consider the case of the appellant to be appointed to any of the posts of Agricultural Officer of Class II Service other than the 5 posts mentioned by the appellant in his affidavit. The appellant should submit a copy of the affidavit filed before this Court to the Department concerned for considering his case. Appointment should be made within two months. [566-E]

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9856 of 1995.

F

From the Judgment and Order dated 28.2.94 of the Maharashtra Administrative Tribunal, Bombay Bench in O.A. No. 884 of 1993.

M.D. Adkar, S.D. Singh and Ejaz Maqbool for the Appellant.

G

D.M. Nargolkar for the Respondents.

The following Order of the Court was delivered :

Leave granted.

H

A Admittedly, the appellant is handicapped because of colour blindness. He was admittedly selected by the Public Service Commission but appointment could not be made on account of his handicap. When the matter came up on March 27, 1995, this Court while issuing notice passed order as follows :

B "Petitioners should also give the nature of the duties he had to perform and whether his colour blindness would interfere with the discharge of his duties. Respondents also would state in this behalf of their stand. If it is needed, they can also sent the petitioner for medical examination by an expert Government Ophthalmologist or Board."

C

Despite the order, the Government took no action in that behalf. On the other hand, the appellant had filed on May 2, 1995 an affidavit detailing that as per the information he had secured, there were 35 posts in the Department and only five posts required perfect vision without colour blindness. Those five posts are mentioned in the affidavit. In other posts,

D

Under these circumstances, we deem it just and proper that the Government should consider the case of the appellant to be appointed to any of the posts of Agricultural Officer of Class II Service other than the 5 posts mentioned by him in his affidavit. The appellant should enclose a copy of this affidavit filed before us to the Department concerned for considering his case. Appointment should be made within two months from the date of the receipt of this order.

E

The appeal is allowed. No costs.

R.P.

Appeal allowed.