

SH. S.R. MURTHY
v
THE STATE OF KARNATAKA AND ORS.

AUGUST 19, 1999

[MRS. SUJATA V. MANOHAR, K. VENKATASWAMI AND
M. JAGANNADHA RAO, JJ.]

Service Law:

Promotion—Reservation for scheduled caste candidates—Government Polytechnic—Head of Ceramics Section—Appointment of the Scheduled caste candidate on the post on the basis of roster, and person, senior to him belonging to general category ignored—Held, since the post was a single post, application of roster for purpose of promotion was not permissible—Promotion made on the basis of roster set aside.

Post Graduate Institute of Medical Education and Research, Chandigarh v. Faculty Association and Ors., JT (1998) 3 SC 223- followed.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4480 of 1990.

From the Judgment and Order dated 3.5.89 of the Karnataka Administrative Tribunal, Bangalore, in Application No. 2297 of 1988.

Abhay N. Dass, for M.M. Kashyap for the Appellant.

KH Nobin Singh, for M. Veerappa for the Respondents.

The following Order of the Court was delivered:

This appeal deals with the promotion given by the first respondent to the respondent No. 3 to the post of Head of Section, Ceramic in a Government Polytechnic. There is no dispute that this is a single post. The first respondent, however, applied the roster relating to reservations to this post. Hence although the appellant was the senior-most person eligible for promotion to that post, he was not appointed. Instead, respondent No.3, who was junior to him, but belonged to the Scheduled Caste category was appointed since on the roster point, the vacancy was reserved for a Scheduled Caste candidate.

The Karnataka Administrative Tribunal in the impugned judgment

A proceeded on the basis that since this was a promotional post, all promotional vacancies would have to be rotated in accordance with the roster. Hence the promotion of respondent No.3 to the post of Head of Section, Ceramics, was a valid appointment.

B The Constitution Bench of this Court in the case of *Post Graduate Institute of Medical Education and Research, Chandigarh v. Faculty Association and Ors.*, JT (1998) 3 SC 223 has held, after discussing all decisions on this question, that:

C “In a single post cadre, reservation at any point of time on account of rotation or roster is bound to bring about a situation where such single post in the cadre will be kept reserved exclusively for the members of the backward classes and in total exclusion of the general members of the public. Such total exclusion of general members of the public and cent percent reservation for the background classes is not permitted within the constitutional frame work”.

D In the light of this ratio since the post in question was a single post, the application of the roster for the purpose of promotion was not permissible.

E The appeal is allowed and the impugned order of the Tribunal is set aside. The promotion of respondent No.3 on the basis of the roster is set aside. However, the salary already received by the third respondent in the promotional post shall not be recovered.

R.P.

Appeal allowed.