

»CASE NO.:
Special Leave Petition (civil) 7406 of 2000

PETITIONER:
U.P. RAJYA VIDYUT PARISHAD APPRENTICE WELFARE ASSOCIATION AND ANR.

RESPONDENT:
STATE OF UTTAR PRADESH AND ORS.

DATE OF JUDGMENT: 08/05/2000

BENCH:
M. JAGANNADHA RAO & M.B. SHAH

JUDGMENT:
JUDGMENT

2000 (3) SCR 1201

The following Order of the Court was delivered :

After hearing learned counsel for the petitioner, we are of the view that the decision of this Court in Transport Corporation v. U.P. Parivahan Nigam Shikshak Berozgar Sangh, [1995] 2 SCC page 1, has laid down clear criteria as to regular appointment of apprentices governed by the Apprentices Act, 1961. The relevant principles are as follows :

(i) Other things being equal, a trained apprentice should be given preference over direct recruits.

(ii) For this, a trainee would be required to get his name sponsored by any employment exchange. The decision of this Court in Union of India v. Hargopal, AIR (1987) 227, would permit this.

(iii) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice has undergone training would be given.

(iv) The concerned training institute would maintain a list of the person trained year wise. The persons trained earlier would be treated senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior".

In the said judgment, this Court, however, observed at the end of para 13 as follows :

"In so far as the cases at hand are concerned, we find that the Corporation filed an additional affidavit in C.A. Nos. 4347-4354 of 1999 (as desired by the Court) on 20th October, 1992 giving position regarding vacancies in the posts of conductors and clerks. If such posts be still vacant, we direct the Corporation to act in accordance with what has been stated above regarding the entitlement of the trainees.

We make it clear that while considering the cases of the trainees for giving employment in suitable posts, what has been laid down in the Service Regulations of the Corporation shall be followed, except that the trainees would not be required to appear in any written examination, if any provided by the Regulations. It is apparent that before considering the cases of the trainees, the requirement of their names being sponsored by the employment exchange would not be insisted upon. In so far as the age requirement is concerned, the same shall be relaxed as indicated above".

A question has arisen before the Allahabad High Court in a later case as to

whether the direction that the trainees need not undertake examination was applicable only to the petitioners in the case before this Court or whether para 13 laid down any general principle that apprentices need not take the examination. This question went before a Full Bench of the Allahabad High Court in Arvind Gautam v. State of U.P. & Ors., (Civil Misc. Writ Petition No. 23076 of 1998), reported in (1999) 2 U.P. CBEL 1397. The Full Bench held that what was mentioned in para 13 was in the specific factual background of the "cases on hand" and that the apprentices are to go through the examination as also the interview, as provided in the Recruitment Rules. The Full Bench had also approved the judgment in the case of Manoj Kumar Mishra v. State of U.P. & Ors., reported in (1997) 2 UP LEBC 1374 which took a similar view in regard to the interpretation of para 13 of the judgment of this Court mentioned above.

We, are, therefore, of the opinion that the view taken in Manoj Kumar Mishra's Case as also the view taken by the Full Bench in Arvind Gautam's case, (supra) is a correct one and that apprentices have to go through the procedure of examination/interview and that they are however entitled to the benefits of entries (i) to (iv) laid down in Transport Corporation case [1995] 2 SCC 1.

For the reasons stated above, the Special Leave Petition is dismissed.