

PETITIONER:
THE STATE OF MAHARASHTRA

Vs.

RESPONDENT:
DEORAO & ANR.

DATE OF JUDGMENT 07/12/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1996 SCC (7) 216 JT 1995 (9) 617
1995 SCALE (7) 338

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Delay condoned.
Leave granted.

On September 4, 1995, we issued the following directions:

"It is stated by Sh. K. Madhava Reddy, learned senior counsel appearing for the State that the Government had not duly approved the recommendations made by the Committee. But with modifications, certain procedure has been prescribed for absorption of such of those candidates like the respondents appointed in the Forest Department. It is also stated that those two respondents having been found eligible according to the Scheme, they have been absorbed. It is brought to our notice that the persons claiming similar reliefs have filed the petitions in the Tribunal and also the contempt proceedings against the State for non-implementation. In that situation, the appropriate course would be that the State should file an affidavit by the competent Officer enclosing the Scheme evolved for workmen. Then we would be in a position to consider the cases and pass appropriate orders. Mr. Madhava Reddy seeks for and is granted four weeks time for filing the affidavit. It would be open to the counsel appearing in the Tribunal to bring this order to the notice of the Tribunal and the Tribunal would do the needful. List

after four weeks."

Pursuant thereto, the appellant have framed Scheme for absorption of all these temporary candidates working as Assistant Plantation Officers, Ropvan Kotwals and clerks. Under the above scheme, we are informed that 62 Assistant Plantation Officers and 9 Clerks who were qualified under the Scheme, have already been absorbed. Even out of 73 Ropvan Kotwals, 31 candidates have already been absorbed. What remains are only 42 candidates. It is seen that under the Scheme the criteria prescribed are as under:-

"13. It is submitted that the following eligibility criteria regarding reappointment of the terminated Ropvan Kotwals has been applied in deciding their eligibility/non-eligibility:

a) The names of the candidates for the post of Ropvan Kotwal must come through the Government approved agencies like the Employment Exchange, the Social Welfare officer, etc.

b) The candidate for the post of Ropvan Kotwal must fulfil the following conditions at the time of recruitment;

i) He must have passed VII Standard Examination.

ii) He must not be over 28 years of age (Relaxation of 5 years is granted in case of backward class candidate).

iii) He must meet the following physical standards;

1. Height : Minimum 163 cm.

2. Chest : Minimum 79 cm.

Inflated minimum 84 cm.

3. Minimum inflation of Chest : 5 cm."

We cannot find fault with the scheme as framed by the appellant. But however, the facts remain that 42 Ropvan Kotwals had already put in about eight years of service from the initial dates of appointment. It is stated by Mr. Deshpande, the learned counsel appearing for the respondents that they passed the 8th standard examination prescribed. It would appear that they were over aged at the date of initial appointment and some of them did not prescribe the minimum Height of 163 cms. and expansion of Chest at 79 cms. as prescribed under the Scheme. We cannot straightaway give directions for absorption of them. We direct the appropriate officer to examine them, conduct physical examination of them and if they are marginally short of, the minimum prescribed under the Scheme, their cases would be considered and absorbed. When we asked the counsel for the State, on instructions, it is stated by Mr. S.M. Jadhav that as at present there are no vacancies existing. Shri S.V. Deshpande stated that there were advertisements made calling for fresh recruitment but may be in some other scheme. In whatever scheme that may be in operation, if they are eligible to that scheme, the case of the left over candidates also would be considered and appropriate orders may be made. It is denied by the counsel for the State. If there are no advertisements made as contended for, as and when the vacancies arise, their cases would be considered and absorbed. They will not be entitled to backwages from the date of the protection given by the Tribunal till the date of absorption. As and when there is any work to be done on daily basis, they would be engaged as per rules or instructions. If they become over aged at the time of

recruitment, necessary age relaxation also be given. All the proceedings pending in the Tribunal stand closed.

The appeal is accordingly disposed of. No costs.

JUDIS