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P. RAVINDRAN AND ORS.

v.

UNION TERRITORY OF PONDICHERRY AND ORS.

OCTOBER 1, 1996

B

[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

Service Law :

C

Ad-hoc appointments—Lecturers appointed on ad-hoc basis in Union Territory of Pondicherry—Appeared before Public Service Commission at the time of regular recruitment—Not selected—Subsequently they filed petitions before Administrative Tribunal claiming regularisation—Tribunal dismissed the claim observing that since the posts were required to be filled up by recruitment from the open market through Commission, it had no power to issue directions to regularise petitioners' services—Held, Tribunal rightly rejected the claim—The Commission having been entrusted with the constitutional duty to select suitable candidates by inviting applications from open market, every candidate has a fundamental right to seek consideration and for selection through open competition—Process of recruitment through Commission, as envisaged under the Constitution, cannot be bypassed by issuing direction for regularisation of services of ad-hoc persons.

E

J & K Public Service Commission & Ors. v. Dr. Narinder Mohan & Ors., [1994] SCC (L & S) 723, relied on.

F

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
Nos. 20933-36 of 1996.

G

K.M.K. Nair for the Petitioners.

The following Order of the Court was delivered :

Delay condoned.

H

The special leave petitions arise from the orders of the Administra-

tive Tribunal made on February 20, 1996 in OA No. 290/95 and batch. A
 The petitioners were appointed as Lecturers on *ad hoc* basis and some
 of them had obtained M. Phil, Ph.D. also. When the regular recruitment
 through the Public Service Commission (the "Commission", for short) was
 conducted, the petitioners also appeared before the Commission but they
 were not selected. Subsequently, the petitioners filed petitions for B
 regularisation of their services. In the impugned order, the Tribunal has
 pointed out that since posts are required to be filled up by recruitment
 from the open market through the Commission, the Tribunal has no
 power to issue direction to regularise the services. Thus, these special
 leave petitions. C

Shri K.M.K. Nair, learned counsel for the petitioners, contended
 that the petitioners are Post-graduates, M.Phil and Ph.D. and they are
 highly qualified and have acquired experience from 1987 as lecturers.
 When they were appointed, number of vacancies were available. Since D
 they have been working since 1987, they require to be regularised by
 suitable directions. We find no force in the contention. The admitted
 position is that the Commission having been entrusted with the constitu-
 tional duty to select suitable candidates by inviting applications from the
 open market, every candidate has a fundamental right to seek considera- E
 tion and for selection through open competition. The petitioners also have
 that right. At one time, they staked their claims but were not selected.
 Therefore, the process of recruitment through the Commission, as en-
 visaged under the Constitution, cannot be bypassed by issuing direction
 for regularisation of the services of the *ad hoc* persons who had come to
 the service through back-door entry. This Court in catena of decisions F
 has deprecated this practice of regularisation except in extra-ordinary
 cases by directing the Government to frame a scheme and regularise Class
 III and IV services in accordance with the scheme. Even in subsequent
 decisions, that leverage is not being insisted upon. This Court in *J & K*
Public Service Commission & Ors. v. Dr. Narinder Mohan & Ors., [1994] G
 SCC (L & S) 723 had held that the Court cannot adopt hybrid process
 of direction to regularise the services bypassing process of selection
 envisaged under the Constitution. This Court has deprecated the Govern-
 ment for exercising the power under Article 320 of the Constitution taking
 out the posts from the purview of the Commission and to regularise H

A services *de hors* the Commission. Under those circumstances, we are of the view that the Tribunal has rightly rejected the claim to grant the relief sought for.

B The special leave petitions are accordingly dismissed subject to the benefit of relaxation of age bar till the date of next recruitment so as to consider the cases of the petitioners along with open candidates.

R.P.

Petitions dismissed.