

DR. P.N. DUBEY AND ORS.
v.
STATE OF MADHYA PRADESH

FEBRUARY 6, 1997

[K. RAMASWAMY AND S. SAGHIR AHMAD, JJ.]

Service Law :

Madhya Pradesh Services (Gazetted) Recruitment Rules, 1966 :

Recruitment/Promotion—Post of Assistant Directors—50% direct recruitment—50% promotion from Veterinary Assistant Surgeons—Government deciding to make 100% promotions—Rules not amended—Meanwhile Notification issued for filling 50% of vacancies by direct recruitment—Notification challenged—Held, since on the date of Notification, the Rules stood unamended, 50% of the vacancies earmarked for direct recruitment in accordance with Rules—No interference called for.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3349(N) of 1981.

From the Judgment and Order dated 10.2.81 of the Madhya Pradesh High Court in Misc. Petition No. 812 of 1980.

Tirupurari Ray and Vineet Kumar for the Appellants.

Sakesh Kumar and S.K. Agnihotri for the Respondents.

The following Order of the Court was delivered :

This appeal by special leave arises from the judgment of the Madhya Pradesh High Court, Jabalpur Bench, made on February 10, 1981 in Miscellaneous Petition No. 812/80. The appellants were working as Veterinary Assistant Surgeons in the Madhya Pradesh Veterinary Services Gazetted. The Madhya Pradesh Veterinary Services is governed by the rules called Madhya Pradesh Services (Gazetted) Recruitment Rules, 1966. The channel of recruitment to the post of Assistant Director Veterinary Service was from two sources, namely, direct recruitment and promotion in the proportion of one is to one. An advertisement came to be made by

A the Madhya Pradesh Public Service Commission of 28 posts of Assistant directors. The appellants had challenged the validity of the Notification and selection on the ground that the Government had, by then decided, to provide recruitment to the post of Assistant Directors by promotion with 100% from the feeder cadre, namely, Veterinary Assistant Surgeon. It is found, as a fact, by the High Court that as on the date of the notification, B the rules were not amended. Unamended Rules provide that the recruitment was to be made from two sources, namely, direct recruitment and by promotion at a ratio of one is to one. Consequently, the advertisement for recruitment of Assistant Directors by the Public Service Commission and selection and appointment of the candidates were valid in law. The same C came to be challenged in this appeal. It is seen that undoubtedly though decision was taken by the Government, the Rules have not been amended. Therefore, the advertisement made for recruitment to fill up the posts of Assistant Directors, by direct recruitment and consequential selection as per the unamended Rules for the 50% of the vacancies earmarked for direct recruitment was in accordance with the aforesaid rules. As a consequence, the view taken by the High Court is consistent with the Rules. We D do not find any illegality warranting interference.

The appeal is accordingly dismissed. No costs.

G.N.

Appeal dismissed.