

MUKESH KUMAR V. STATE OF UTTARAKHAND

[MANU/SC/0139/2020]

Date of Decision- February 07, 2020.

Court- Supreme Court of India

Judges- L. NAGESWARA RAO

Parties Involved-

- (1) Petitioner – Mukesh Kumar & Anr
- (2) Respondent- state of uttrakhand and ors.

Background

In India's democratic system, reserves have always been one of the most important roles of the central and state governments. Although it has been many years since we gained independence, our country still lacks social equality. Reservation is a policy that favors members of disadvantaged groups who have suffered or have suffered discrimination in the past and have been deprived of key needs. It applies to education and employment.

Its purpose is to fulfill the promises of equality and social justice in the various articles of the Indian Constitution (such as Articles 14, 38, 39 and 46). However, the benefits of reserves are increasingly being accumulated for the richest and most educated people. Between CS. And ST. This case concerns the reservation policy regarding state office promotions. The Supreme Court considered other cases with the same problems and once again clarified the doubts about the reservation of promotion to public office.

Facts

On September 5, 2012, the Uttarakhand government made the decision that in promoting the position of Assistant Engineer (Civil) in Public Works, all public service positions in the state should be filled, and no reserves will be provided for scheduled castes. and registered tribes Khand State Government Department. filed a petition with the Superior Court, which dismissed the lawsuit filed by the state government. However, the Superior Court is aware of the flaws in its review of the sentence and amended the state's obligation to collect quantifiable data on the underrepresentation of registered castes and tribes in public services, and ordered the state government to make decisions. based on the data. The Honorable Supreme Court includes a set of appeals on the same issue and decides to deal with them together.

Issue

- is the state government obliged to provide reservations for the castes and tribes listed?
- Does also apply to bookings for promotional courses?
- Is the right to request a reservation a fundamental right?

- Can the state government's decision not to make a reservation be based solely on quantifiable data related to the adequacy of representation?

Judgement

- The Honorable Apex court held that the state government is not required to make reservations for the promotion of predetermined castes and tribes to public office or positions.
- It is not possible to request the preservation of basic rights in promotional activities,
- nor can it issue a mandate for this purpose.
- people do not have basic rights to claim reservations in the promotion.
- Data collected by the state government is only used to test the rationality of providing reservations to these categories of people, not otherwise.
- It is not necessary to provide reservations in the promotion, and the state does not need to justify its decision based on quantifiable data, indicating that members of the listed castes and tribes are adequately represented in the national service.
- It also repealed the High Court's order on July 15, 2019 that all future vacancies to be filled through assistant engineer promotion can only come from members of recognized castes and tribes, because this is totally unreasonable.

Reasons

- Article 16, paragraph 4 and Article 16, paragraph 4A are in the nature of authorization clauses, giving the state government discretion to consider the possibility of making reservations when the circumstances are reasonable.
- The state government cannot be ordered to provide appointments for public office appointments. This is an established law.
- The Supreme Court reached the above conclusions based on its *Ajit Singh (II) v. Punjab State*, (1999) 7 SCC 209 and *C.A. Rajendran v. Union of India* (1968) 1 SCR 721. The collection of quantifiable data showing that registered castes and tribes are under-represented or sufficient in public service is a necessary condition for retention in promotion, which was supported by its earlier rulings in *M. Nagaraj and other v. Union of India* cases . Other (2006) 8 SCC 212 and *Indra Sawhney v. India and Als Union*. (1992) Supp.3 SCC 217)
- The state government relied on the Uttarakhand High Court in *Vinod Prakash Nautiyal & Others v. Uttarakhand and other states* WP (S / B) N° 45 of 2011, which abolished 1994 Article 3 (7) of the Act on the provision of reservations in promotions.
- Even if the court's attention is drawn to the insufficient number of castes and tribes on the public service list, the court cannot issue any order to the state government to make reservations in accordance with the law made by the court in *Suresh. Chand Gautam v. UP Status* (2016) 11 SCC 113 The collection of data about the misrepresentation of such group members is a prerequisite for providing a reservation and is not required if the state government decides not to provide a reservation.

Importance of the case

In this case, the Judgment emphasized that Article 16, Paragraph 4 and Article 16, Paragraph 4A of the Constitution are only authorization clauses. The state government is not required to make a reservation and the court has no power to compel the state government to do so. States may allow reservations "if the State believes that they are not adequately represented in the national service." The state government can decide for itself whether it is necessary to maintain the appointment and promotion of public office. It also clarified that no individual has requested that basic rights be reserved in promotional activities. The collection of data about the misrepresentation of such members is only a prerequisite for retention. When your decision is questioned, you must prove its rationality by providing data.