



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.12.2021
PRONOUNCED ON : 04.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.10689 OF 2015

1.Adhilakshmi.L

2.Praveen Kumar.D

...Petitioners

Vs.

1.National Insurance Company Ltd.,
rep. by its Chairman & Managing Director,
3, Middleton Street,
Kolkatta-700 071.

2.United India Insurance Co. Ltd.,
rep. by its Chairman & Managing Director,
24, Whites Road,
Chennai-600 014.

3.New India Assurance Company Ltd.,
rep. by its Chairman & Managing Director,
87, M.G. Road, Fort,
Mumbai-400 001.

4.Oriental Insurance Company Ltd.,
rep. by its Chairman & Managing Director,
Oriental House,
A-25/27, Asaf Ali Road,
New Delhi-110 002.

5.General Insurance Corporation of India,
Suraksha, 170, Jamshedji Tata Road,
Churchgate, Mumbai-400 020,
India.

6.Central Board of Secondary Education,
"Shiksha Kendra", 2, Community Centre,
Preet Vihar, Delhi-110 092.

R5, R6 are impleaded as per per order
dated 09.08.2016 by BRJ in
WMP.No.6312 of 2016
in W.P.10689/2015.

...Respondents



PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to absorb the Writ Petitioners in the post of Assistant automatically because they belong to the sixth batch (i.e., 1993-94) or in any event atleast against 25% of vacancies reserved for them in the subsequent notification dated 18.11.2014 with monetary, seniority and other service benefits from the date of the notification before considering/appointing any candidate who have not undergone the Insurance Vocational Course like the petitioners.

For Petitioner : Mr.K.Srinivasamurthy

For Respondent : Mr.T.S.Baskaran
Nos.1 to 4

For Respondent No.5 : Mr.A.E.Ravichandran

For Respondent : No Appearance

O R D E R

Heard the learned counsel for the parties.

2. A Scheme called "10 + 2 General Insurance Vocational Course" was introduced in the year 1988 to selected Central Board Secondary Education (CBSE) Schools, by General Insurance Corporation of India (GIC). Under the Scheme, the students who had passed 10 + 2 vocational course with 50% were required to undergo one year apprenticeship and on completion of the same, they would be appointed to the post of Assistant in the GIC and other Subsidiary Insurance Companies, under 25% reservation of the total vacancies. The petitioners herein had joined the vocational course in the year 1993-94 batch.

3. When the respondents had published a notification dated 18.05.2013, without demarcation of 25% vacancies for the General Insurance Vocational Course candidates, some of the aggrieved candidates, who had completed the vocational course in the year 1993-94 batch, had filed a Writ Petition in the case of B.Supriya and 8 Others V. National Insurance Company Ltd., Kolkatta and 3 Others passed in W.P.No.15923 of 2013 dated 27.09.2013 and by an order dated 27.09.2013, it was held that the candidates, who had undergone the vocational course in 1993-94, even though have failed in the written examination, would be entitled for automatic absorption in the recruitment process. Accordingly, this Court had directed the Insurance Company to appoint them as Assistants after one year of apprenticeship training, with certain directions. The said order came to be affirmed by a Hon'ble Division Bench of this Court in



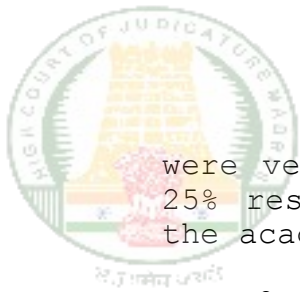
W.A.No.2164 of 2013, dated 25.03.2014. A review petition filed against the same was also dismissed on 03.07.2014.

4. In this background, the second respondent had issued another notification for recruitment on 18.11.2014, in which 25% of the total vacancies were earmarked for 10 + 2 CBSE-GI-Vocational Course for the 1993-94 batch. The petitioners herein along with another candidate of the 1993-94 Vocational batch had taken the written examination in the recruitment process but were not called for interview, on the ground that they had not passed the written examination. Aggrieved against their non selection, the present Writ Petition has been filed.

5. The learned counsel for the petitioners submitted that they had joined General Insurance Vocational Course, with a hope that there is a chance for recruitment in the Insurance Companies in view of the 25% reservation for the course and since the reservation was not strictly applied in the present recruitment, their non-selection is illegal. In support of such a contention, the learned counsel relied on the decision of this Court in the case of B.Supriya (supra). According to the learned counsel, when this Court had directed the Insurance Company to appoint the petitioners therein, who had also taken the vocational course of the year 1993-94, these petitioners would be entitled for the same benefits, as that of the 1993-94 batch petitioners' in B.Supriya's case. In support of the binding effect of that case to the present case in hand, he placed reliance on the light of the decision of the Hon'ble Supreme Court in the case of Maharaj Krishnan Bhatt and Another vs. State of Jammu and Kashmir and others reported in 2008 (9) SCC 24.

6. Per contra, Mr. A.E.Ravichandran, learned counsel appearing for the fifth respondent/GIC would submit that, the Scheme for recruitment of the candidates, who had qualified in GIC vocational Course came to be revised on 31.05.1993 as per which, there is no automatic selection or extension of 25% reservation to the General Insurance Vocational Course students, since the Scheme of automatic job linkage was done away from the academic year 1993-94. He further submitted that the decision in B. Supriya's case (supra) would not be applicable to the petitioners herein since that case pertains to the recruitment notification of the year 2013, whereas the present notification is of the year 2014.

7. Mr.T.S.Baskaran, learned counsel appearing for the respondents 1 to 4 adopted the arguments of the counsel for GIC and further submitted that the revised guidelines issued by GIC on 31.05.1993 has been communicated to CBSE and all the Schools offering GIC Vocational Course and therefore the petitioners



were very much aware of the revised guidelines, withdrawing the 25% reservation and entitlement for automatic job linkage from the academic year 1993-94.

8. I have given my anxious consideration to the submissions made by the respective learned counsels.

9. When the 10 + 2 General Insurance Vocational Course was introduced, it came with an assurance to the students for automatic absorption in the 25% of the total vacancies. In consequence to such an assurance, the petitioners herein, like other similarly placed students, had opted for such a vocational course, with a fond hope that their employment with a Insurance Company is guaranteed.

10. The stand taken by the respondents now seems to be that though such an assurance was given during the introduction of the Scheme, the same was withdrawn through the Revised Scheme on 31.05.1993, which is applicable to the academic year 1993-94. Incidentally, the revision of the Scheme paving way for removal of automatic absorption in the 25% of the vacancies was communicated by GIC to CBSE, Delhi on 31.05.1993. Such a revision of the Scheme was not made known to the concerned Schools, who were conducting the GIC vocational course. Thereafter i.e., from the academic year 1994, the withdrawal of the reservation of 25% of the vacancies was intimated by the CBSE to the concerned Schools. By this time, the petitioners herein had already joined the 1993-94 batch of the vocational course. This information given by GIC to CBSE on 31.05.1993 and the subsequent communication in the year 1994 by CBSE to the concerned Schools is admitted by the respondents 1 to 4 in paragraphs 6 and 7 of their counter affidavit dated 23.12.2016. Thus, it is very clear that the students who had opted and joined the GIC Vocational Course for the 1993-94 batch, were not aware that the 25% reservation was withdrawn with effect from 1993-94 onwards.

11. The issue with regard to the entitlement for the claim of 25% reservation for the 1993-94 batch students of the Vocational Course, has already been dealt with in B.Supriya's case (supra), in favour of the petitioners herein. In this decision, a learned Single Judge had held that the written examination was unwarranted insofar as the 1993-94 batch students are concerned, since they were entitled to be considered under the 25% vacancies quota and the consequent appointment. The relevant portion of the order reads as follows:-

"6. On 2.7.1993 a revised scheme guidelines were framed by General Insurance Company Corporation of India for vocational courses



WEB COPY

1993-1994, was taken at the Annual Level Meeting of the Monitory Committee and the same was stated to be intimated by letter dated 2.7.1993. No such letter is produced before this court. Assuming that it was intimated through letter dated 2.7.1993 by that time, the course would have started and the students would have been undergoing the course by that time. Therefore, it is very evident after the commencement of the course for the year 1993-1994 only, the job scheme was withdrawn. Therefore, 1993-94 batch students are covered by automatic absorption scheme and the benefits under the old scheme namely, automatic absorption of the students undergoing the Insurance Course and successfully completing the apprenticeship, have to be extended to 1993-1994 batch students like the petitioners.

10. Before getting admission, there was no communication to the students stating that the automatic scheme is no more available and it should have been published without any knowledge about the alleged withdrawal of the guarantee 1993-1994 batch would have studied +2 course. But for the assurance held out by the respondents to the 1993-94 batch students about automatic job guarantee out of the course, the petitioners would not have chosen and joined the course. That apart the said course was neither beneficiary to the petitioners nor suitable for other studies. Therefore, the respondents are bound by promissory estoppel and equity also lies in favour of the petitioner. The doctrine of "Promissory estoppel" is not really on the principle of estoppel but it is a doctrine evolved by equity in order to prevent injustice and it can be the basis of cause of action as held by the Apex Court in Motilal Padampat Sugar Mills Co.Ltd. vs. State of U.P. Reported in 1979 (2) SCC 409. Other judgements are Surya Narain Yadew vs. Bihar SEB reported in (1985) 3 SCC 38 Union of India Anglo Afghan Agencies reported in AIR 1968 SC 718 and D.Boopalan and others vs. Madras Metropolitan Water Supply and Sewerage Board and others reported in 2007 (12) SCC 569.

11. If a decision was taken to be de-linked the automatic job guarantee in the respondent corporation, sufficient advertisement or intimation or information in advance should have been made and made known to the students, so that



WEB COPY

the students would have got information about the non-availability of job guarantee in advance. The information alleged to have been communicated through letter dated 2.7.1993, itself is very belated as the student joined the course by that time. The future of the students should not have taken very lightly by the respondent companies which are all instrumentalities of the state which are "state" as defined under Article 12 of the Constitution of India. No where, it is stated either in the counter affidavit or by way of documents that the schools as well as students were informed properly. The very fact that the course itself was not discontinued by the schools in 1993-1994 itself, would prove that there was no information about the de-linkage of the automatic job guarantee from the said course. If advance information was given, neither the students would have joined the special course nor the schools would have continued the course.

12. A perusal of the syllabus of the vocational course in General Insurance Company would show that apart from the languages, insurance alone was prescribed as syllabus viz. For +1 1) Principles and Practice of Fire Insurance; 2) Principles and Practice of Motor Insurance; 3) Principal and practice of Miscellaneous Insurance

For +2 4) Principle and Practice of Marine Aggro and Hull; 5) Principle and Practice of Engineering and lop Insurance Company; and 6) Principles and Practice of Rural and Crop Insurance.

That part, those subjects were taught only by the Insurance Officials. Hence, the course was designed in such a way, it would only suit for the Insurance company alone and not for any other job. Therefore, the students who underwent the said course have to be necessarily accommodated in the respondents' companies. As stated above, the students who underwent the course during 1993-1994 have to be necessarily beneficiaries of the automatic appointment in the Insurance Companies.

13. This matter can also be considered in another angle also. Though it is stated that for the academic year 1993-1994 job-linkage under the scheme was withdrawn and 25% of the vacancy in the cadre of Assistant, would be kept aside for those, passing through out side 10+ 2 scheme from



WEB COPY

the year 1993- 1994, no such 25% reservation has been made in the impugned notification. Therefore, the notification is in violation of the assurance, commitments made to the 1993-1994 batch students, like petitioners. It is stated in paragraph 6 of the counter affidavit filed by the respondents in W.P.No.18197 of 2001, that 25% of the vacancies would be kept aside for the passed out of 10 +2 VI batch students for the year 1993-1994. Therefore, the 25% of the posts, in the total vacancy have to necessarily be reserved for 10 +2 (1993-1994) students. The respondent cannot deny the said reservation to the petitioners, on the ground that they failed in the written examination. When out of 2600 posts, 650 students constitutes 25% and only nine petitioners appeared for the examination, they cannot be denied posting for non-passing. The respondents could fix minimum and cut of mark only when the nine number of candidates exceeds the available posts.

14. First of all, the written examination is unwarranted as far as 1993- 1994 batch students are concerned. If they are made to write examination, like general candidates, there is no benefits for the year 1993-94 batch, out of 25% reservation. In other words, 1993-94 batch students are treated on par with General candidates by writing examination. The contention of the respondents 1993-1994 students have to undergo written examination like general candidates only to deny 25% reservation to the petitioners arbitrarily, illegally and capriciously. Admittedly after 1997, now only by impugned notification, recruitment is sought to be done. Therefore, during interregnum period viz. between 1997 and 2013, the petitioners could not have any chance for appointment and they are entitled to relaxation of age.

15. In the order dated 11.2.2006 in W.P.No.18197 of 2001 filed by the 9 th petitioner, this court observed as follows:

" Therefore the petitioner shall have a right for being considered for selection only when there is an open recruitment against notified general vacancies in the respondent-company. Till such time, the petitioner cannot have any grievance at all."

Therefore, the petitioners have to be



WEB COPY

accommodated in the 25%. Though this court is of the opinion that the impugned notification is bad for non-reservation of 25% of the posts for 1993-1994 batch, contrary to the assurance, undertaking made in the scheme as well as before the court proceedings, this court is not inclined to quash the same as it would affect many candidates, who have already undergone the examination and waiting for results. In view of public interest, this court moulds the prayer.

16. It is well settled that under Article 226 of the Constitution of India, this court can mould the prayer and grant relief accordingly. The Supreme Court in *Dwarkanath vs. FTO* reported in 1965 (3) SCR 536 categorically declared that Article 226 of the Constitution of India is couched in comprehensive phraseology and it ex-facie confers wide power on the High Courts to reach injustice whenever it is found. Further it was held that Article 226 enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this country.

17. Therefore this court declares:

- 1) That the respondents have not proved that the de-linking of automatic job guaranteed from the course was informed in advance to the petitioners even before the admission into their course during 1993-1994. Therefore petitioners are covered by original scheme of automatic job guarantee.
- 2) Based on the assurance of automatic job guarantee only, the petitioners joined in the Vocation Course specially designed for Insurance Companies and therefore the respondents are bound by promissory estoppel.
- 3) The respondents cannot deny the automatic job to those candidates who under went the course during 1993-1994, as the scheme was withdrawn unilaterally without information in advance.
- 4) Assuming that the job guaranteed was withdrawn from 1993-1994, even as per the revised scheme 25% of total seats are not reserved for 1993-1994 to the students as per the impugned notification.
- 5) The respondents by the impugned notification violate the commitment/ undertaking given in the revised guidelines and also the undertaking given before this court.
- 6) The respondents cannot compel the petitioners to undergo the tests for getting employment, like general candidates, as they were specifically



WEB COPY

made to study the designed vocational course.

7) The petitioners could not join any other higher course or get employment, because of undertaking the special course.

8) The petitioners have to be appointed by the respondents in their Insurance companies as Assistants after giving one year apprenticeship training.

9) Admittedly after 1997, there was no recruitment up to 2012 and now only through the impugned notification, steps are taken to fill up the posts of Assistants in the Insurance Companies. Therefore, age relaxation have to be given to the petitioners in view of the above positions.

10) Without quashing the impugned notification in the interest of large number of participants who took part in the recruitment process, this court moulds the prayer and directs the respondent to absorb the petitioners under the 1988 scheme and to start the process of appointment of the petitioners by appointing the petitioners as apprentices within four weeks from the date of the receipt of a copy of the order and report to this court."

12. The aforesaid decision of the learned Single Judge came to be affirmed by a Hon'ble Division Bench in a order dated 25.03.2014 in W.A.No.2164 of 2013 by observing that the students who had taken 1993-94 batch were not aware of the withdrawal of the 25% reservation and therefore upheld the decision of the learned Single Judge. The relevant portion of the order reads as follows:-

"15. In the considered opinion of this Court that the order made in the Writ Petition warrants no interference, for the reason that, admittedly, the students, who were similarly placed were accommodated by the appellants herein and the writ petitioners, who underwent the said course in 1993-94 were belatedly informed that they are not entitled for absorption. It is to be pointed out at this juncture that the school academic year begins in June and the said revised guidelines came into force belatedly on 02.07.1993 and hence, respondents herein cannot be faulted with.

16. The learned Single Judge has rightly taken note of the fact that the syllabus for the vocational course in General Insurance Company



WEB COPY

was a tailor-made to suit the needs of the Insurance Company and in fact, the subjects were taught only by the Insurance Officials and therefore held that the students, who underwent the said course have to be necessarily accommodated in the appellants' companies and also the students, who underwent the course during earlier academic years were absorbed under the automatic appointment/absorption scheme in the Insurance Companies.

17. It is pertinent to point out at this juncture that only nine writ petitioners have to be accommodated and the said fact was also taken note of while allowing the writ petition. This Court on an independent application of mind to the facts and materials placed before it, is of the view that there is no error apparent or infirmity in the order, allowing the writ petition and finds no merit in this writ appeal."

A review petition No.54 of 2014 filed by the respondents was also dismissed on 03.07.2014.

13. It is stated that only three candidates of the year 1993-94 batch of vocational course had participated in the selection process, which was less than the total number of seats falling under the 25% reservation. In view of the decision taken by this Court in B. Supriya's case (supra), the respondents cannot now insist that the petitioners should have passed the written examination. As a matter of fact, the petitioners ought not have to be subjected for written examination but should have been automatically absorbed, since the total number of candidates who had passed the GIC vocational course and applied in the reservation process were less than the number of reserved vacancies under the 25% quota.

14. The learned counsel for the respondents attempted to submit that the decision in B. Supriya's case (supra), would not be applicable to the present case in hand since that case related to the notification year 2013, whereas the petitioners herein had participated in the 2014 notification. The counter affidavit filed by GIC also states that the petitioners in B. Supriya's case (supra) alone would be entitled for the benefits of the order and not any other person.

15. These submissions seems to be misconception of the order in B. Supriya's case (supra). The learned Single Judge, while passing the order, had clearly held in para 9 that the 1993-94 batch students are covered by automatic absorption Scheme and the benefits of such automatic absorption has to be extended to

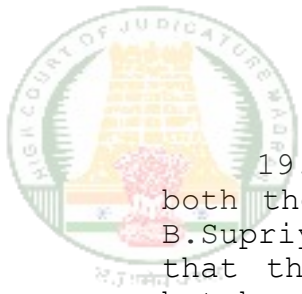


the 1993-94 batch students. In para 13 & 14 of the same order, the learned Judge had also held that the respondents cannot deny reservation to the petitioners on the ground that they had failed in the written examination and that in the written examination insofar as the 1993-94 batch is concerned, is unwarranted. The order itself is not one in personam, but would be applicable to all the 1993-94 batch in view of the clear findings therein and thus the submission that this order would not be applicable to the petitioners, is misconceived. Likewise, B. Supriya's case (supra) does not differentiate the notifications 2013 and 2014, but only highlights the status and entitlement of the students of the 1993-94 batch in general. Since the petitioners herein also belongs to 1993-94 batch like that of the B. Supriya's case, the order would be squarely applicable to the petitioners herein.

16. The Hon'ble Supreme Court in the Maharaj Krishnan Bhatt's case (supra) had held that, once the earlier decision of a Constitutional Court had attained finality, the Authorities ought to have gracefully accepted by granting similar benefits to the subsequent petitioners.

17. Thus, I am of the considered view that since the revision of the Scheme by withdrawal of the 25% reservation was communicated by GIC to CBSE only on 31.05.1993, at which point of time, the concerned Schools were not aware of such a revision, the students who had joined for the 1993-94 batch cannot be expected to know about such a withdrawal of the benefit of the Scheme. The subsequent intimation to the concerned Schools was only from the academic year 1994-95, by which time the petitioners along with the other students of 1993-94 batch, had already opted for the course. This proposition was also ratified by the Hon'ble Division Bench in B. Supriya's case (supra).

18. In view of the non consideration of the candidature of the petitioners by the respondents and the pendency of this Writ Petition, the petitioners may have crossed the upper age limit prescribed in the notification by now. This aspect was also considered by this Court in B. Supriya's case (supra) in para 14, wherein it was held that the respondents cannot insist for upper age limit in view of the arbitrary action taken by them. Had the respondents processed the petitioners' applications as on the date of the notification, without requiring them to undergo written examination, they would have been well within the maximum age limit. Thus, in view of the mistake committed by the respondents in failing to apply 25% reservation to the petitioners, they cannot now insist that the petitioners should be within the maximum age limit after all these years.



19. In the light of the above observations and findings by both the learned Single Judge and the Hon'ble Division Bench in B.Supriya's case (supra), this Court is of the affirmed view that the revised Scheme will not be applicable to the 1993-94 batch of GIC Vocational Course students, including the petitioners herein. Consequently, these petitioners are not required to undergo the written examination in the recruitment process and hence their disqualification in the examination is irrelevant. Since the total number of candidates, who had participated in the selection process from the 1993-94 batch was well within the 25% of reservation for the GIC vocational course 1993-94, they would be entitled for appointment.

20. In the result, there shall be a direction to the second respondent herein to forthwith appoint both the petitioners herein to the post of Assistants under the pre-revised Scheme relating to GIC Vocational Course, without reference to their upper age limit or requirement of passing the written examination. Such appointment orders shall be passed, within a period of two weeks from the date of receipt of a copy of this order. It will be open to the respondents to subject the petitioners for the one year apprenticeship, as per the pre-revised Scheme. The Writ Petition stands allowed accordingly. There shall be no orders as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

DP

To

- 1.The Chairman & Managing Director,
National Insurance Company Ltd.,
3, Middleton Street,
Kolkatta-700 071.
- 2.The Chairman & Managing Director,
United India Insurance Co. Ltd.,
24, Whites Road,
Chennai-600 014.
- 3.The Chairman & Managing Director,
New India Assurance Company Ltd.,
87, M.G. Road, Fort,
Mumbai-400 001.



4.The Chairman & Managing Director,
Oriental Insurance Company Ltd.,
Oriental House,
A-25/27, Asaf Ali Road,
New Delhi-110 002.

WEB COPY

5.General Insurance Corporation of India,
Suraksha, 170, Jamshedji Tata Road,
Churchgate, Mumbai-400 020,
India.

6.Central Board of Secondary Education,
"Shiksha Kendra", 2, Community Centre,
Preet Vihar, Delhi-110 092.

+1cc to M/s.Row & Reddy, Advocate Sr.No.7508

+1cc to M/s.A.E.Ravichandran, Advocate Sr.No.7088

+1cc to M/s.T.S.Baskaran, Advocate Sr.No.7044

W.P.No.10689 of 2015

PMK (CO)
RVM(17/02/2022)