

Madhukar Sinha

Vs

Union Of India And Others

Transferred Case No. 2 of 1991

(S. Ratnavel Pandian, J.)

(Smt. M. S. Fathima Beevi, S. R. Pandian JJ)

13.09.1991

JUDGMENT

S. RATNAVEL PANDIAN, J. –

1. The above case has been registered in pursuance of our order dated November 23, 1990 in Transfer Petition (Civil) No. 546 of 1990 transferring O.A. No. 191 of 1990 under Article 139-A of the Constitution of India from the file of the Central Administrative Tribunal, Patna Bench, Patna. The appellant's prayer is to dispose of the above case along with Civil Appeal Nos. 5439-52 of 1990 [arising out of SLP (Civil) Nos. 13525-38 of 1990]. The relief sought for by the appellant before the CAT, Patna Bench was similar to the one before the CAT, Principal Bench, Delhi that being to declare the second proviso to Rule 4 of CSE as violative of Articles 14 and 16 of the Constitution of India. On August 29, 1990 the Patna Bench in M.P. No. 36 of 1990 granted an interim relief which reads thus :

"Heard the learned counsel for the applicant. The applicant may be allowed to appear at the Civil Services (Main) Examination, 1990, subject to result of the final orders in the original application. The respondents are directed accordingly. Copy be given to the parties today."

2. Mr Salman Khurshid appearing for the appellant submitted that the interim direction given by the Patna Bench if covered by the directions given in paras 5(ii) and 6 of the order of CAT, Delhi he has no further submission to be made, and the implementation of those directions will satisfy his relief.

3. We in our order dated December 7, 1990 [Mohan Kumar Singhania v. Union of India, (1991) 1 SCC 408] have clarified certain directions given by the CAT, Delhi with reference to the various interim orders passed by it in a number of OAs and finally gave the following direction :

"Hence we permit all those candidates falling under paras 5(ii), 6 and 7 to sit for the main examination subject to the condition that each candidate satisfies the Secretary, Union Public Service Commission that he/she falls within these categories and that the concerned candidates have passed the preliminary examination of 1990 and have also applied for the main examination within the due date. This permission is only for the ensuing examination. As we are now permitting those who have passed the preliminary examination of 1990 and have applied for the main examination on the basis of the unquestioned and unchallenged directions given under paras 5(ii), 6 and

7 of the judgment of the CAT, Principal Bench, New Delhi, the same benefit is extended to the other appellants also who satisfy those conditions as mentioned under paras 5(ii), 6 and 7."

4. The above direction virtually confirms the direction given by the Patna Bench in M.P. No. 36 of 1990 allowing the appellant therein to sit for CSE (Main) of 1990. However, we have not subjected our direction with any rider in the sense that that direction will be subjected to the result of the appeals. In fact, we have in the judgment rendered today in Civil Appeal Nos. 5439-52 of 1990 and batches given a direction to the respondents inclusive of the Union Public Service Commission that "all those candidates who have appeared for the Civil Services (Main) Examination, 1990, pursuant to our permission given in the order dated December 7, 1990 and who have come out successfully in the said examination and thereby have qualified themselves for the interview, shall be permitted to appear for the interview test and that if those candidates completely and satisfactorily qualify themselves by getting through the written examinations as well as the interview shall be given proper allocation and appointment on the basis of their rank in the merit list notwithstanding the restriction imposed by the second proviso and our present judgment upholding the validity of the said proviso since the respondents have not questioned and challenged the directions given by CAT, Principal Bench, Delhi in paras 5(ii), 6 and 7 of its judgment dated August 20, 1990. We would like to make it clear that the unchallenged directions given by the CAT in its judgment as well as directions given by us in our order dated December 7, 1990 are not controlled by any rider in the sense that the said directions were subject to the result of the cases and hence those directions would be confined only to those candidates who appeared for CSE, 1990 and no further. The seniority of those successful candidates in CSE, 1990 would depend on the service to which they have qualified. The seniority of the left-out candidates would be maintained in case they have joined the service to which they have been allocated on the result of previous CSE and such candidates will not be subjected to suffer loss of seniority as held by the CAT, Delhi in its judgment".

5. Therefore, we hold that this appellant is also entitled for the same above benefit. In other respects, this transferred case is dismissed for the reasons mentioned in the main judgment in Civil Appeal Nos. 5439-52 of 1990 and batches. No order as to costs.

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