

M. L. Sharma and Others

Vs

Union of India and Others

Writ Petition (Civil) No. 442 of 1986

09.10.1991

ORDER

1. This is an application under Article 32 of the Constitution. Petitioners are either Chief Judicial Magistrates or Additional Chief Judicial Magistrates in the employment of the State of Haryana who claim to be entitled as members of the Haryana State Superior Judicial Service constituted under the Punjab Superior Judicial Service Rules, 1963 as applicable to State of Haryana on the basis that they have been conferred powers by appropriate notification under Section 12 of the Code of Criminal Procedure of 1973 and come within the definition of District Judge as provided under Article 236 of the Constitution.

2. On hearing counsel for the parties we are of the view that the inclusive definition in Article 236 of the Constitution expands the definition by including other categories of officers named therein over and above District Judges referred to in Article 233. Even if a particular person comes within the definition given under Article 236 of the Constitution it is open to the State Government under appropriate rules to classify such officers included in the inclusive definition not to be District Judges proper and to belong to a category different from that. That is exactly what has happened in the Haryana State. We do not think on the logic indicated in the writ petition and reiterated before us by learned counsel petitioners can be treated as belonging to the superior judicial service of the State of Haryana. He placed reliance on a decision of this Court in Prem Nath v. State of Rajasthan [(1967) 3 SCR 186 : AIR 1967 SC 1599] to seek support for his proposition. That was a case where a Constitution Bench of this Court was dealing with Additional Sessions Judges under Section 9(3) of the Code of Criminal Procedure of 1898 and referred to a category of officers very much different from what the petitioners are.

3. We do not think petitioners are entitled to receive support from the ratio in the said decision.

4. On the analysis presented, the writ petition must fail and is dismissed. There will be no order as to costs.

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