

Chakkan Lal and others

Vs

District Judge, Agra and others

I.As. Nos. 2 and 3 of 1991 in Civil Appeal No. 1104 of 1982

(M.M. Punchhi, G.N. Ray JJ)

05.12.1991

ORDER

1. These are two interim applications made in Civil Appeal No. 1104 of 1982 which was decided by this Court on January 0 1990. In interim application No. 2 of 1991 a direction is sought by the appellants of Civil Appeal No. 1104 of 1982 requiring the High Court to decide the issue regarding the applicability of the Government order regarding the grant of benefits of reservation in the matter of promotion for the employees working in the District Courts in the State of Uttar Pradesh. In interim application No. 3 of 1991 some people have approached this Court to make them parties to the appeal and variation is sought in the final orders of disposal.

2. After the disposal of Civil Appeal No. 1104 of 1982 ail interim application No. 1 of 1990 was filed by some persons seeking impleadment and clarification. This Court expressed no opinion on the claim of the then applicants but left the High Court free to deal with the matter indicating that if there is no direction for reservation in accordance with law, it was open to the High Court to meet the situation by making its own order. That order was passed on May 9, 1991.

3. The High Court it appears taking stock of the mandate of both the orders afore referred to make an order on the administrative side on 26-7-1991 whereby benefits already granted to and being enjoyed by the appellants in Civil Appeal No. 1104 of 1982 (termed revisionists) were ordered not to be disturbed. Consequential orders were passed to the effect that pecuniary benefits admissible to the revisionists in the aforesaid order dated January 9, 1991 be made available to them promptly if not done already. In face of this order the direction sought by the applicants in interim application No. 2 of 1991 is now of no substance. Similarly the directions sought for impleadment and variation of the order in Civil Appeal No. 1104 of 1982 by means of interim application No. 3 of 1991 becomes of no substance. Still the applicants in interim application No. 2 of 1991 have gone on to assail the orders of the High Court dated July 26, 1991 and have pressed for a direction on the basis set out below.

4. It is urged on their behalf that the judgment under appeal had been passed by a Division Bench of the High Court relying on its earlier decision in Civil Writ Petition No. 9724 of 1978. Later the said decision has been upset by this Court in Comptroller and Auditor-General of 'India v. Mohan Lal Mehrotra (1991) 4 JT 138 : (AIR 1991 SC 2288). The applicants now want a decision on merits on the strength of this decision. On the other hand it has been pointed out by the oppositionist that the basis of the decision of this Court in Civil Appeal No. 1104 of 1982 is of distinction as it was found that the Division Bench judgment relied upon related to another service having distinguishing features between employment terms of employees of one and the other. The High Court was found faulted on the administrative side to have relied upon that decision and for its administrative advise

to the District Judge on that basis and as a consequence the District Judge to have recalled the benefits of reservation. Resultantly it was ordered by this Court that benefits already available to the appellants therein shall be restored to them with all consequential benefits and the reference made by the District Judge shall be deemed to be pending. Now that pending reference of the District Judge had to be decided by the High Court on the administrative side, requested as it was by this Court to take decision on the basis of the law laid down in a series of cases of this Court relevant to the point and thereafter to advise the District Judge as to what action need be taken for the purpose. It seems to us that the High Court in pursuit of that goal has made a decision on 26-7-1991. The claim of the applicants in interim application No. 2 of 1991 to the effect that we must correct the order of the High Court passed on the administrative side on the anvil of the ratio in Mohan Lal Mehrotra's case (AIR 1991 SC 2288) (supra) appears to us misplaced. As far as this Court is concerned it has disposed of the matter in substance in Civil Appeal No. 1104 of 1982. By means of an interim application of the kind preferred before us such relief is not admissible. The applicants will have to follow the beaten track in challenging the said order in a regular proceeding, or seek a review, if so advised, from the High Court on the administrative side. In this view of the matter, we do not propose to pass any orders in either of the two applications. The applications shall thus stand disposed of without any order as to costs. Should the appellants chose to initiate an appropriate action in the matter before the High Court, we expect the High Court to dispose it of most expeditiously as the dispute had been hanging long for over a decade, if not more.

Order accordingly.

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