

V. V. Joseph and others

Vs

Union of India and others

(L. M. Sharma, S. Mohan, N. Venkatachala JJ)

Writ Petition (C) No. 1334 of 1989

(L. M. Sharma, S. Mohan, N. Venkatachala JJ)

31.07.1992

ORDER

1. The application for addition of Respondents Nos. 5 to 13 is allowed.
2. We have heard the learned counsel for the petitioners. In our view the writ petition is fit to be dismissed without issuing Rule Nisi.
3. The question raised in the case relates to the inter se seniority between the petitioners, respondent No. 4 and the added respondents 5 to 13. The respondent No. 4 had earlier challenged the interpretation placed on the order dated 4-8-1977 against him by filing an application under Art. 226, which was registered as writ petition No. 6164 of 1978 in the Andhra Pradesh High Court and claimed further relief on that basis. The writ petition was allowed in his favour by a learned single Judge and the judgment was confirmed by a Division Bench. The Union of India brought the matter to this Court, but without any success. While dismissing to special leave petition, a bench of this Court observed that they did not find any merit in the petition. After the judgment became final, it has been implemented and as a result thereof the petitioners have been pushed below. Now, they have come to this Court by a petition under Art. 32, contending that, the said judgement is not binding on them since they were not impleaded as parties therein.
4. We have heard Mr. Vaidyanathan at considerable length. Having regard to the fact and circumstances of this case, we do not find ourselves in a position to agree with him. The Union of India and the officers representing the department had placed all relevant circumstances before the High Court and again before this Court, but could not succeed. The interpretation which was put on the afore mentioned order on 4-8-1977 and the rule enunciated thereon applied to all the present parties including the respondent No. 4 in the same way. If the ground raised on behalf of the petitioners is allowed to be raised for decision on merits, a piquant situation will arise so far the service is concerned and Union of India and its officers will not be able to know the correct position in this regard. The stand that the Union of India took in the earlier litigation was the same as that of the petitioners today, and it had been contested seriously upto the Supreme Court stage.
5. The plea raised by Mr. Vaidyanathan on behalf of the -petitioners that the petitioners did not have any information about the earlier litigation, does not appear to be convincing. Several paragraphs of the writ petition were placed by the learned counsel before us, repeatedly stating that no notice of the case was sent to them, and that after the impugned order implementing the judgment was passed, they had collected the details.

6. After examining all the circumstances we do not agree with the petitioners that they had no information of the litigation at all, It appears that they were satisfied by the stand of the Union of India taken in their favour and in pursuing the matter from stage to stage. The Union of India, therefore, should in the present case, be deemed to have re-presented the petitioners' interest and the judgment cannot now be reconsidered. We, accordingly, dismiss the writ petition, but in the circumstances without costs.

Petition dismissed.

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