

Madan Lal

Vs

State of Punjab and others

Civil Appeal No. 3371 of 1992

(M. N. Venkatachaliah, P. B. Sawant, N. P. Singh JJ)

31.07.1992

JUDGEMENT

1. We have heard learned counsel for the parties. Special leave granted.
2. The appeal is against the judgement and order dated 14th January 1992 by the High Court of Panjab and Haryana in Civil Writ Petition No.541 of 1992 dismissing appellant's writ petition in limine. We are afraid the dismissal of the writ petition was not justified in view of the antecedent litigation between the parties Culminating in an earlier judgement dated 2nd December 1991 of the High Court in writ petition No. 5728 of 1991 which had declared appellant's eligibility for consideration for selection to the Punjab Civil Service (Executive Branch)(Class-I) Service from the feeder-cadres of Tehsildar and Niab Tehsildar. By the same judgement, the High Court had held - correctly or erroneously is not the question here - that in considering the case of the appellant for such selection, the relevant standards and criteria were those that obtained at the time the vacancies arose and not the amended standards that came into force subsequently on the 4th April 1990. In coming to that conclusion, the High Court had placed reliance upon the pronouncement of this Court in Y.V. Rangaiah v. J. Srinivasa Rao, AIR 1983 SC 852. The decision of the High Court dated 2nd December 1991, not having been appealed against had assumed finality between the parties and became binding on the respondents.
3. Pursuantly, in obedience to that order of the High Court the Financial Commissioner (Revenue) was required to consider afresh the case of the appellant for selection to Class-I Service and determine appellant's suitability for inclusion in the Select-List in terms of that judgement. It would appear that at the time the appellant's case was considered afresh, the Financial Commissioner applied the amended criteria and held the appellant unsuitable. The Financial Commissioner, accordingly, by his order dated 17th December 1991 rejected the case of appellant. Aggrieved by this decision, appellant approached the High Court again in the present Writ Petition No. 541 of 1992 from the order of dismissal of which this appeal arises. As stated earlier the writ petition was dismissed in limine.
4. Learned counsel for the appellant submits that the question before the High Court was not whether the principles laid down in Rangaiah's case, (AIR 1983 SC 852), were attracted and whether directions issued earlier by the High Court in its order dated 2nd December 1991 were or were not right but the real question was one of obedience of directions contained in the earlier order dated 2nd December 1991 which had become final. The only question to be considered by the High Court was whether the Financial Commissioner had obeyed the mandamus issued in the said W.P.

No. 5728 of 1991. the consideration of the appellant's case , after the direction of the High Court dated 2nd December 1991, it is urged , ought to have accorded with the specific directions therein. It is urged that palpably those directions had not been obeyed and, avowedly the amended criteria were applied by the Fincial Commissioner.

5. Shri Bansal, learned counsel appearing for State of punjab, urged that as similar matter were yet pending in the High Court it would be appropriate that the order under appeal be set aside and the writ petition itself remitted to the High Court for a fresh disposal on the merits in accordance with law. But we are told by appellant's learned counsel that the pending writ petitions concern the validity of the amended rules. If it be so, no useful purpose would be served by a remit.

6. On a consideration of the matter, the point urged by the appellant's learned counsel appears to us to be well taken and should succeed. It is not the question whether Rangaiah's case, (AIR 1983 SC 852), applied to the present situation; nor even whether the earlier Writ Petition No. 5728 of 1991 was correctly decided or not. Even assuming it was not the question is whether the Financial Commissioner could ignore the earlier mandamus and decline to implement the directions contained in the order dated 2nd December 1991 in Writ Petition No. 5728 of 1991 which had become final and binding between the parties and whose finality had not been assailed in a manner known to or recognised by law. We do not want to be understood to have affirmed or approved the correctness of the order dated 2nd December 1991 in Writ Petition No. 5728 of 1991; nor do we hold that Rangaiah's case was applicable to the present facts. All that we need say is that as long as the earlier order dated 2nd December 1991 in W.P. No. 5728 of 1991 remained operative it had to be treated as law for the case and obeyed.

7. Accordingly, this appeal is allowed; the order of the High Court dated 14th January 1992 under appeal as well as the order dated 17th December 1991 of the Financial Commissioner (Revenue) are set aside, the Writ Petition No. 541 of 1992 allowed and the Financial Commissioner (Revenue) directed to consider and dispose of appellant's case afresh in accordance with the directions of the High Court in the said W.P. No. 5728 of 1991. No costs. Appeal allowed.

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