

SUPREME COURT OF INDIA

Union of India

Vs.

V. P. Parukutty

C.A.No.15605 of 1996

(K. Ramaswamy and G. T. Nanavati JJ.)

29.11.1996

ORDER

1. Delay condoned.

2. Leave granted.

3. This appeal by special leave arises from the judgment of the Division Bench of the Kerala High Court, made on 30-11-1990 in Writ Appeal No. 767/88 reversing the judgment of the learned single Judge.

4. The admitted position is that the respondent was appointed as an agent in the National Savings Scheme called Mahila Pradhan Kshetriya Bachat Yojana as per order dated 7th August, 1976 under which the respondent was working as an agent. The agency was terminated by order dated 2-8-1994 on the ground that the respondent is a near relation to the employee working in the Post Office (brother) and, therefore, agency was not validly created. The respondent challenged that order by

filing a writ petition in the High Court and also the circular dated 5-12-1981 on the basis of which the said order was passed. The circular was challenged on the ground that it was discriminatory and arbitrary. The High Court found that the circular was neither discriminatory nor arbitrary and, therefore, dismissed the writ petition. Feeling aggrieved by the order passed by the learned single Judge, the respondent filed an appeal in the High Court. The Division Bench allowed the appeal. We are clearly of the opinion that the view taken by the Division Bench that mere existence of near relations in the division is not enough for terminating the agency is not correct, in view of the clear policy of the Government and the Government instructions directing that no near relations, namely, legitimate child, or step child, father/step-father, mother/step-mother, husband, brother/step-brother, sister/step-sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, as defined under the scheme, should be appointed as an agent at the place of work by the Post-master. But as the respondent has been working right from 1976 and as no clear finding has been recorded by the authority establishing breach of the said instructions, we do not think that this is a case warranting interference. It will be open to appellants to have the Post-master transferred to any other place. Though we find that the view taken by the High Court is not correct, in view of the peculiar facts of this case, the appointment of respondent is not disturbed.

The appeal is disposed of accordingly. No costs.

Order accordingly.