

U.H. Jadhav

Vs

Union of India

Civil Appeal Nos. 1439-1440 of 1999

(K. Venkataswami, S.S. Mohammed Quadri JJ)

12.03.1999

JUDGMENT

S.S. Mohammed Quadri, J.

1. Leave is granted.

2. The appellants filed these appeals against the common judgment and order of the Central Administrative Tribunal, Mumbai Bench, Mumbai in Original Applications Nos. 425/92 and 259/93 dated December 6, 1995 by seeking permission of this Court as they were not parties to those original applications. The grievance of the appellants is that without impleading them in the said original applications the judgment of the Tribunal passed in their favour in OA No. 823/87 on July 11, 1991, was upset.

3. The appellants were recruited as Inspectors (O.G.) in the Central Excise Department of Mumbai during the period 1973 to 1977 (hereinafter referred to as 'direct recruits'). They filed O.A. No. 823/87 before the Central Administrative Tribunal praying that the respondents therein be directed to give them seniority on the basis of continuous officiation and other consequential benefits. Their application was allowed by the Tribunal on 11.7.1991. For a similar relief other direct recruits also filed OA No. 425/92 on April 27, 1992. Yet another batch of direct recruits approached the Tribunal for similar relief by filing O.A. No. 259/93 in March 1993. While so the department challenged in this Court, by filing Special Leave Petition, the said judgment of the Central Administrative Tribunal in O.A. No. 823/87 dated 11.7.1991. The Special Leave Petition was dismissed by this Court on 9.3.1993. It is also on record that persons who were promoted from the lower post as Inspectors in the Central Excise Department, Mumbai (hereinafter referred to as 'the promotees') and who were permitted to intervene in the said Original Applications Nos. 425/92 and 259/93, filed before the Tribunal Review Petition No. 18/93 seeking review of the said judgment of the Tribunal dated 11.7.1991 in O.A. No. 823/87. The Review Petition was also dismissed on October 20, 1993. In the meanwhile, the Collector of Central Excise, Bombay-I notionally re-fixed the seniority of the appellants in the cadre of Inspectors on 11.1.1993 and they were also granted consequential promotion as Superintendent of Central Excise by order by the Central Excise Department on 7.4.1994. However, on December 6, 1995, another Bench of the Central Administrative Tribunal, disagreeing with the judgment in the case of the petitioners in O.A. No. 823/87 dated 11.7.1991, dismissed O.A. No. 259/93 and O.A. No. 425/92 on 27.4.1992. It is that judgment and order of the Tribunal that is assailed as affecting the rights of the appellants.

4. Mr. B. Parthasarthy, learned counsel appearing for the appellants, submitted that the observations made by the Tribunal with regard to its earlier judgment, in the case of the appellants, in O.A. No.

823/87 dated 11.7.1991, in the judgment under appeal will prejudice the appellants' rights and therefore those observations have to be set aside. Shri A.S. Nambiar, learned senior counsel appearing for the respondents, supported the judgment under appeal on various grounds.

5. We are not inclined to go into the merits of the case as it is beyond the scope of these appeals. Merely because the Tribunal has, in the judgment under appeal, taken a view different from that taken in its judgment passed in O.A. No. 823/87 dated 11.7.1991, the appellants cannot be allowed to question the same. However, so far as the grievance of the appellants is concerned, there is no dispute that the order of the Tribunal dated 11.7.1991 in O.A. No. 823/87 has attained finality as the challenge against that judgment failed before this Court in view of the dismissal of the Special Leave Petition on 9.3.1993 as also before the Tribunal in view of the rejection of Review Petition No. 18 of 1993 filed by the promotees, the interveners, in the cases under appeal, on October 20, 1993. The department has already implemented the said order of July 11, 1991 and given all consequential benefits and promotion to the appellants. Further, a perusal of the judgment under appeal shows that the promotees also reconciled themselves to the position arising out of the judgment dated 11.7.1991 in O.A. No. 823/87 insofar as it relates to the appellants as is evident from their contention before the Tribunal that nothing further should be done to prejudice the seniority of the promotees who had already suffered on account of the seniority assigned in the case of the appellants. Having regard to this position, it is obvious that the order under appeal cannot affect the settled rights of the appellants.

6. We are also informed that against the impugned judgment dated December 6, 1995 and against the order dated October 20, 1993 rejecting R.P. No. 18/93 filed in the said O.A. No. 823/87 Special Leave Petition (c) Nos. 17103-17104/96 and 20044-20045/96 were also dismissed by this Court.

7. The appeals are disposed of accordingly with the above clarification. The parties are to bear their own costs.