

SUPREME COURT OF INDIA

M.N. Haider

Vs.

Kendriya Vidyalaya Sangathan

S.L.P. (C) No.7120-7122 of 2004

(S. N. Variava and A. K. Mathur JJ.)

03.09.2004

JUDGMENT

S. N. Variava, J.

1. These Special Leave Petitions are against an Order dated 18/12/2003 passed on a Review Petition and an Order dated 31/5/2002. Against the Order dated 31/5/2002 a Special Leave Petition had already been filed. That stood dismissed. After the Special Leave Petition was dismissed, an application for review of Order dated 31/5/2002 was filed before the High Court. The High Court has thus dismissed the Review Petition. Now, not only the order on the Review Petition but the Order dated 31/5/2002, against which a Special Leave Petition has already been dismissed, are sought to be assailed.

2. Reliance is placed upon the Orders of this Court in the case of Indian System of M. & H. Council Emps. Assn. vs. Union of India & Ors. in S.L.P. (Civil) No. 2295 of 2004. This S.L.P. was against the same Orders, i.e. Order dated 18/12/2003 and Order dated 31/5/2002. This Court, without issuing notice to the other side, appears to have passed an Order, inter alia, in the following terms:-

"We think it appropriate and necessary in the interest of justice to leave liberty with the petitioners to work out their rights, if any, based upon the said bye-laws in the manner known to and in accordance with law, de-hors the principle of parity of pay-scales. As and when any such action is taken or proceedings instituted before any authority or court, such authority/court shall consider the matter afresh such claims with particular reference to the rights, if any, flowing from such bye-laws uninfluenced by any of the observations made in the judgment under challenge. We express no opinion, either way on all or any of such claims.

With liberties left as above, the special leave petitions shall stand dismissed."

3. Reliance is also placed upon two other Orders in two other S.L.Ps. wherein, again without issuing notice, the above-mentioned order is followed or an order identical thereto has been passed. It is submitted that this Court should pass an identical Order.

4. We are unable to accede to this request. In none of these cases has it been considered that once a Special Leave Petition against the main order has been dismissed it would not be open to challenge the main Order again. Further, it is settled law (cases of Shankar Motiram Nale vs. Shiolalsing Gannusing Rajput reported in 0 and Suseel Finance & Leasing Co. vs. M. Lata & Ors. (in Special Leave Petition (Civil) Nos. 4376-4381 of 2004 decided on 19th March, 2004 may be looked at) that a Special Leave Petition is not maintainable against an Order in a Review Petition. These authorities have not been shown or considered by this Court whilst passing the above Orders. Once S.L.P. is not maintainable no Orders can/should be passed thereon except to dismiss the same. In view of the settled position, the above mentioned Orders cannot be considered to be precedents.

5. As the Special Leave Petitions are not maintainable, leave to file a Special Leave Petition is refused. S.L.Ps will stand dismissed.

6. In future if a Special Leave Petition is filed against the Order dated 31/5/2002 in LPA No. 271/97 and LPA No. 278/97 or Order dated 18/12/2003 in RA No. 1578/2002 in LPA No. 271/97 and RA No. 1590/2002 in LPA No. 278/97 of the High Court of Delhi, Office to place this Order in the file of that Special Leave Petition with an Office Report.