

State of Rajasthan & Another

v.

Milap Chand Jain & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE GYAN SUDHA MISRA HON'BLE MR. JUSTICE J. CHELAMESWAR

Special Leave to Petition (Civil) No. 20363-20368 Of 2013 Etc.(C.C. No. 7465-7470 Of 2012) With Slp No. 20386-20390, 20373-20377, 20379-20383, 20378, 20812, 14952 Of 2013 & Slp (Civil) No. C.C. No. 9440 Of 2013 & Slp (C). No. 34866 Of 2012 | 01-05-2013

SLP.(C)... C.C.Nos. 7465-7470 of 2012, 8287-291 of 2012, 8403-8407 of 2012, 8464-8468 of 2012, 19503 of 2012, SLP (C).No. 34866 of 2012, C.C.No. 9200 of 2013, SLP (C).No. 14952 of 2013.

Delay condoned.

This batch of special leave petitions are directed against the judgment and order of the High Court of Rajasthan dated 29-11-2011 by which the appeals filed by the petitioner-State of Rajasthan were rejected by the Division Bench observing therein that the Apex Court has already dismissed the appeal of the State against the impugned judgment and order dated 10-3-2011. This order was passed by this Court in a batch of petitions (C.A.Nos. 469 of 2007 and C.A.No. 470 of 2007). Thereafter, the petitioner-State filed review petitions against the order dated 10-3-2011 passed in the aforesaid petitions in which they also raised the grounds on the merit of the matter but the review petitions were also dismissed.

Thereafter, Instant batch of special leave petitions were filed by the petitioner-State challenging the same order which was the subject matter of challenge in the previous special leave petitions. But it is obvious the afresh batch of special leave petitions against the impugned judgment and order against which special leave petitions were dismissed, cannot be entertained by a coordinate Bench unless the coordinate Bench were inclined to take a different view and were to refer the matter to a larger Bench.

Having heard the counsel for the parties, we are of the view that although the question of law was allowed to be kept open in the earlier matter, no discriminatory treatment should be meted out to another set of teachers who were affected by one and the same order of the State of Rajasthan, wherein the order of the State was set aside by the High Court and one batch of special leave petitions against the same as also Review were dismissed. The implication of the observation in regard to the fact that the question of law was allowed to be kept open obviously was meant to the urged in a matter arising out of a subsequent event in which a similar question arose.

Insofar as these special leave petitions are concerned, that is not the situation as the special leave petitions have been filed by the petitioner-State of Rajasthan against the same impugned order, which was the subject matter of challenge in the earlier appeals, as already stated hereinabove. We are further conscious of the fact that if a view different from the earlier order were to be taken by this

Court for any reason whatsoever, appropriate reasons could be assigned in this regard. But if a similar view is taken, then dismissing one set of the batch of matters but allowing the other set, is bound to result into unjust discrimination to the same class of persons. Apart from the fact that, we see no ground to different from the view taken earlier, we have been informed that the financial implication of the payment towards Career Advancement Scheme is borne by the University Grants Commission to the extent of 80% and only 20% is to be borne by the petitioner-State. If the petitioner-State has accepted the grant to the extent of 80% from the University Grants Commission and the State has to add 20%, it is not open for the State to urge that it will not bear the 20% financial liability specially when its plea already stands rejected. If the petitioner-State at all had any reason to deny this claim in spite of the entitlement of the respondent-teachers, the State in the first place should not have accepted 80% grant from the University Grants Commission. These observations have been recorded herein merely in the interest of fairness and justice to the parties as these special leave petitions are fit to be dismissed solely on the ground of parity as the High Court has also refused to entertain the writ appeals on the ground of parity which clearly implies that any other view different from the one taken earlier is bound to result into unjust and discriminatory treatment which we cannot permit to prevail.

The special leave petitions are, thus, devoid of merit and are, therefore, dismissed.

S.L.P.(C).....C.C.No.9440 of 2013

The counsel for the petitioner, Mr. Manoj Swarup, submitted that this petition is not maintainable as the petitioner had not moved the High Court before the Division Bench against the judgment and order of the Single Bench. He may, therefore, be permitted to withdraw this special leave petition.

In view of his request, the special leave petition is dismissed as withdrawn.