SUPREME COURT OF INDIA

South Central Railway Employees Co-Op. Credit Society Employees Union

Vs.

B. Yashodabai

C.A.No.7130 of 2002

(Anil R. Dave, Madan B. Lokur and Kurian Joseph JJ.)

08.12.2014

JUDGMENT

ANIL R. DAVE, J.

1. Being aggrieved by the judgment delivered by the High Court of Andhra Pradesh in Writ Appeal No.1683 of 1998 on 14th August, 2002, this appeal has been preferred by the South Central Railway Employees Co-Op. Credit Society Employees' Union.

2. It is necessary to know the circumstances which gave rise to the present litigation, which has put the employees of the appellant-union to undue hardship and long-drawn litigation.

3. The South Central Railway Employees Co-Op. Credit Society (hereinafter referred to as 'the Society'), had framed rules governing service conditions of its employees and the said rules had been approved by the Registrar of Co-op. Societies, Government of Andhra Pradesh, Hyderabad. This Court, in Civil Appeal No.4343 of 1988, had decided that there was no reservation policy for the employees of the Society in the matter of promotion to higher cadre. The said decision had been taken by this Court for the reason that there was a dispute whether the policy of reservation was to be followed only at the stage of recruitment of the employees or it was also to be followed in the matter of giving promotion to the higher cadre. After considering all relevant factors and relevant rules and regulations, this Court had come to a specific

conclusion that there was no provision with regard to giving benefit of reservation of any kind to the employees of the society in the matter of their promotion. The said issue had arisen initially for the reason that even in the matter of promotion, the policy with regard to reservation had been followed by the society and some promotions were given on the basis of reservation policy and the said policy was challenged by way of a writ petition in the High Court of Andhra Pradesh and ultimately in the said proceedings, this Court had finally come to a conclusion in Civil Appeal No.4343 of 1998 that in the matter of promotion, policy of reservation was not to be followed and as a consequence thereof, the persons who had been wrongly promoted on the basis of reservation policy had to be reverted.

4. In the aforestated circumstances, so as to correct the mistake which had been committed by the society and to give effect to the judgment delivered in the aforestated appeal, the Society had issued orders of reversion to the employees who had been wrongly promoted. One such order dated 12th June, 1998 was served upon the concerned employees, who had been wrongly promoted on the basis of their caste and creed. The said order dated 12th June, 1998 was challenged by them by filing Writ Petition No.17756 of 1998 in the High Court of Andhra Pradesh.

5. It is really very strange that the writ petition challenging the aforestated order dated 12th June, 1998 was allowed and the aforestated order was quashed and set aside by the High Court on 6th August, 1998.

6. Being aggrieved by the said judgment of the Single Judge of the High Court, Writ Appeal No.1638 of 1998 had been filed by other employees of the society who had been aggrieved by the wrongful promotions given by the Society on the basis of the reservation policy. The said Writ Appeal had also been dismissed by the Division Bench of the High Court by an order dated 14th August, 2002.

7. The present appeal has been filed by the appellants-employees who are aggrieved by the judgment delivered in Writ Appeal No.1638 of 1998.

8. The learned counsel appearing for the appellants-employees' union had submitted before this Court that the High Court had committed a grave error by reconsidering the issue which had already been decided by this Court. Once this Court had decided in C.A. No.4343 of 1988 that the employees of the Society were not entitled to

promotion on the basis of any reservation policy, the High Court could not have come to a different conclusion, when the judgment delivered by this Court in C.A. No.4343 of 1988 was sought to be implemented by issuance of an order dated 12th June, 1998 and the High Court had committed a grave error by setting aside the said order dated 12th June, 1998.

9. The learned counsel had further submitted that once this Court decides an issue by taking a particular decision, it cannot be said that the judgment delivered by this Court is per incuriam or this Court had not considered all relevant factors while delivering the said judgment. So as to substantiate the aforestated submission, the learned counsel had relied upon the judgments delivered by this Court in Government of Goa v. A.H. Jaffar and sons and another 2008(11) SCC 18 and Suganthi Suresh Kumar v. Jagdeeshan 2002(2) SCC 420.

10. It had been finally submitted that the different view taken by the High Court is absolutely improper and therefore, the appeal deserves to be allowed.

11. On the other hand, the learned counsel appearing for the employees, who had taken advantage of the reservation policy and had got promotion to the higher cadre, submitted that the High Court had rightly considered all relevant factors which had not been considered by the Supreme Court. According to him, certain important and relevant factors had been ignored by this Court while delivering the judgment in C.A. No.4343 of 1988. According to him, as the High Court had considered all other relevant factors, which this Court had not considered, the judgment delivered by the High Court was just and proper and, therefore, the appeal should be dismissed.

12. We have heard the learned counsel at length and have also considered the submissions made, the judgments relied upon by the counsel, the earlier judgment delivered by this Court in C.A. No.4343 of 1988 and the impugned judgment. In our opinion, the High Court has committed a grave error by taking a different view than the one which had been taken by this Court in C.A. No.4343 of 1988, especially when the rules governing the promotion policy had not been amended after the aforestated judgment was delivered by this Court.

13. It is pertinent to note that a review application had been filed in the aforestated C.A. No.4343 of 1988 and the same had been rejected and therefore, the judgment

delivered by this Court in C.A. No.4343 of 1988 had become final.

14. Once in pursuance of a judgment delivered by this Court orders had been issued by the Society to its employees who had been wrongly promoted, the High Court could not have held that the orders were not valid because there were certain other factors which had made the promotions given to the concerned employees valid.

15. In our opinion, the High Court should not have considered any other factor especially when this Court had come to a final conclusion that the policy with regard to reservation in the matter of promotion to the employees was not legal and proper.

16. We are of the view that it was not open to the High Court to hold that the judgment delivered by this Court in C.A. No.4343 of 1988 was per incuriam.

17. If the view taken by the High Court is accepted, in our opinion, there would be total chaos in this country because in that case there would be no finality to any order passed by this Court. When a higher court has rendered a particular decision, the said decision must be followed by a subordinate or lower court unless it is distinguished or overruled or set aside. The High Court had considered several provisions which, in its opinion, had not been considered or argued before this Court when C.A. No.4343 of 1988 was decided. If the litigants or lawyers are permitted to argue that something what was correct, but was not argued earlier before the higher court and on that ground if the courts below are permitted to take a different view in a matter, possibly the entire law in relation to the precedents and ratio decidendi will have to be re-written and, in our opinion, that cannot be done. Moreover, by not following the law laid down by this Court, the High Court or the Subordinate Courts would also be violating the provisions of Article 141 of the Constitution of India.

18. We do not want to go into the arguments advanced by the learned counsel appearing for the respondents before the High Court for the simple reason that it was not open to them to advance any argument which would run contrary to the judgment delivered by this Court in C.A. No.4343 of 1988. In our opinion, the High Court did something which would be like setting aside a decree in the execution proceedings !

19. For the reasons stated hereinabove, we are of the view that the learned Single Judge as well as the Division Bench of the High Court committed a serious error in

law by not following the judgment delivered by this Court and by quashing and setting aside the order dated 12th June, 1998, which had been issued to the concerned employees so as to give effect to the Judgment dated 13th January, 1988 delivered by this Court in C.A. No.4343 of 1988.

20. The impugned judgment delivered by the High Court is set aside. The appeal is allowed with no order as to costs.