

SUPREME COURT OF INDIA

Sudhakar Baburao Nangnure

Vs.

Noreshwar Raghunathrao Shende

C.A.No.16122-16130 of 2017

(Kurian Joseph and R.Banumathi,JJ.,)

09.10.2017

JUDGMENT

Kurian Joseph,J.,

SLP(Civil)No.21046-21054 of 2017

1. Leave granted.

2. The appellants approached this Court, aggrieved by a common interim order in three writ petitions, viz., Writ Petition Nos. 8859 of 2016, 8860 of 2016 and 9291 of 2016. The interim order dated 02.09.2016 reads as follows:-

1. We have heard learned Senior Counsel Mr. Dada and Mr. Jahagirdar, appearing for the petitioner in Writ Petition Nos. 8860 and 8859 of 2016 respectively, Mr. Anturkar for respondent no.1 and the learned AGP for the State. During the course of hearing of these petitions at admission stage, learned Senior Counsel Mr. Dada appearing for the petitioner placed reliance on the following judgments :-

- (a) *P. Chitharanja Menon and ors. vs. A. Balakrishnan and ors*¹.
- (b) *Roshan Lal and Ors. vs. International Airport Authority of India and ors*².
- (c) *Amarjeet Singh and ors. vs. Devi Ratan and ors*³.

2. Learned Senior Counsel appearing for the petitioner submits that without challenging the promotion of the petitioner, the respondent no.1 challenged the seniority list at a belated stage. The petitioner is now occupying the post of Director, Town Planning. There was delay in filing Original Application, which was Condoned arbitrarily. A separate petition is filed against the order of condonation of delay i.e. Writ Petition No. 8859 of 2016.

3. Learned Senior Counsel appearing for the respondent no.1 submits that the petitioner had no right to get promotion and, therefore, the Promotion granted to the petitioner was void ab initio. The respondent no.1 rightly challenged the seniority list. In the facts, it was not

obligatory on the part of the Respondent no.1 to challenge the promotion of the petitioner. Learned counsel for respondent no.1 placed reliance on the following judgments :-

- (a) *P. V. George and ors. vs. State of Kerala and ors*⁴.
- (b) *S. Panneer Selvam and ors. vs. State of Tamil Nadu and ors*⁵.

4. Learned AGP appearing for the State submitted that State has also challenged the order passed by the Tribunal as the said order would create several problems, difficulties in the State administration and would affect the services of employees.

5. Learned Senior Counsel Mr. Jahagirdar, raised issues relating to order of condonation of delay passed by the Tribunal.

6. Issue notice to the respondents, returnable after six weeks.

7. Learned counsel appearing for the respective respondents waive notice.

8. Endeavour would be made to decide the matters finally at the admission stage. Parties may file affidavit, rejoinder prior to the next date of hearing.

9. In the meanwhile, we direct that the parties shall maintain status quo as on today in respect of the promotional post occupied by the petitioner - Noreshwar Raghunathrao Shende.

3. The Special Leave Petitions against the said interim order were disposed of by this Court by order dated 06.03.2017, which reads as follows :-

"Delay condoned.

The petitioner is before this Court, aggrieved by the interim order dated 2.9.2016. The issue pertains to the appointment to the post of Director of Town Planning, Maharashtra. It is submitted that the petitioner has only short period left in service. Be that as it may, since the High Court has passed the interim order to maintain status quo, we do not think it appropriate to pass any order, since the writ petitions are pending before the High Court.

Therefore, we dispose of these special leave petitions with a request to the High Court to dispose of all the three writ petitions i.e. W.P. Nos.8859, 8860 and 9291 of 2016 expeditiously and in any case within a period of two months from the date of production of a copy of this order by the petitioner before the High Court. Pending application(s), if any, shall stand disposed of."

4. The respondents filed Review Petitions against the above order dated 06.03.2017, which were dismissed by order dated 19.04.2017. The order reads as follows :-

"We have perused the Review Petitions and record of the Special Leave Petitions and are convinced that the order, of which review has been sought, does not suffer from any error apparent warranting its reconsideration. The Review Petitions are, accordingly, dismissed. Pending Interlocutory Applications, if any, stand disposed of.

5. Even thereafter, according to the learned senior counsel appearing for the appellants, for one reason or the other, the matters were not being finally heard. We do not propose to express any opinion as to why the matters were not finally heard, except taking note of the fact, at the risk of redundancy, that the interim order has been passed on 02.09.2016 and also taking note of the serious contentions raised by the parties, this Court had requested the High Court to dispose of the writ petitions within two months.

6. It is the submission of the learned senior counsel that on account of the conduct of the respondents, the cases are being adjourned before the High Court, apparently to delay the disposal of the cases. The learned senior counsel appearing for the respondents further submits that the respondents were always ready for final hearing and there was nothing on their behalf towards the delay.

7. Be that as it may, having regard to the seriousness of the matter and having regard to the fact that the writ petitions are still pending before the High Court, we are of the view that the matters need to be disposed of. As agreed by the learned senior counsel appearing on both sides, the parties will appear before the High Court on 31.10.2017, on which date, the writ petitions will be posted as the first item in the High Court.

8. We record the submission made by both the parties that they will argue the matter before the High Court on that date and the writ petitions will be finally heard and disposed of, in any case, within 10 days.

9. With the above observations and directions, the appeals are disposed of.

10. The parties are free to mention before this Court on 14.11.2017, in case the writ petitions are not disposed of by the High Court, as directed above.

11. In view of the order passed above, nothing survives in this misc. application. The application is, accordingly, dismissed.

Judgment Referred.

¹AIR 1977 SC 1720

²AIR 1981 SC 0597

³(2010)1 SCC 0417

⁴(2007)3 SCC 0557

⁵(2015) 10 SCC 0292