

## IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4201 OF 2009  
 (@SPECIAL LEAVE PETITION (CIVIL)NO.14326 OF 2006)

RAVINDER KUMAR SINGH &amp; ORS.

Appellant(s)

VERSUS

VIDYADHIRAJ PANDEY &amp; ORS.

Respondent(s)

WITH SLP(C)NO.17915/2006

SLP(C)NO.21118 OF 2006

SLP(C)NO.16914/2006

SLP(C)NO.15801/2006

CIVIL APPEAL NO.4202 OF 2009 @ SLP(C)NO.8815/2007

CIVIL APPEAL NO.4200 OF 2009 @ SLP(C)NO.6780/2008

O R D E R

Delink Special Leave Petition(C)Nos.17915, 21118, 16914 and 15801/2006 and list separately.

2. No order on the application for impleadment.

3. Leave granted in Special Leave Petition(C)Nos.14326/2006, 8815/2007 and 6780 of 2008.

Heard both sides.

4. In the District of Barabanki in Uttar Pradesh on 30<sup>th</sup> July, 2004 the District Judge, who is the appointing authority for Class III and Class IV of subordinate service in the Judicial Department, invited applications for appointment of Class III and Class IV employees i.e. Stenographer, driver, Clerks, Process Servers etc. A test was held on 29.08.2004 and the result was published in November, 2004. One Stenographer, one driver and certain other posts were advertised and some persons were selected

and appointed. This recruitment was challenged before the High Court and the learned Single Judge found that there was interpolations in the various answers of the candidates and in majority of the cases, the candidates who had been selected, marks had been added on and marks have been clandestinely boosted up to make their selection. Aggrieved by this decision of the learned Single Judge, some of the candidates filed appeals before the Division Bench and the Division Bench, by the judgment dated 19<sup>th</sup> July, 2006 upheld the judgment of the learned Single Judge in part. The Division Bench held that as regards the selection of one driver and stenographer there was no illegality but as regards the selection of the other candidates it was held that as there was large scale interpolations in the answer sheets, the selection of these candidates has been set aside and while disposing off the matter, the Division Bench gave the following directions :

“(1)The decision of quashing select lists dated 4.11.2004 and 5.11.2004 prepared by District Judge, Barabanki for recruitment to Class-IV and Class-III respectively is confirmed;

(2)The appointment to the post of Stenographer and Driver is held valid. The judgment in appeal is modified to this extent;

(3) The judgment in appeal so far as it contains provision for restoration of the service of ad-hoc employees or recruitment of employees from amongst the quashed lists on ad-hoc basis is set aside;....”

5. The Division Bench had also stated that the District Judge, Barabanki should take recourse to the fresh exercise conducting written competitive test for recruitment to the Class-III posts of candidates. After the judgment of the Division Bench, the District Judge, Barabanki issued a fresh Notification on 8<sup>th</sup> October, 2006. It appears that through the process of selection one candidate had sought a clarification from the Division Bench and the same Division Bench passed the impugned order stating that the District Judge was not justified in calling for fresh applications on 8<sup>th</sup> October, 2006 and that the selection process should have been confined to the candidates who had already submitted their applications pursuant to the Notification dated 30<sup>th</sup> July, 2004. This order is challenged before this Court by the High Court. Learned counsel appearing for the petitioners pointed out that in the earlier judgment there was a direction for *de novo* selection and, therefore, the District Judge was justified in calling for fresh applications and the subsequent clarification order passed by the Division Bench was not proper. We are not inclined to accept this contention. The learned single Judge as also the Division Bench specifically directed that there should be a *de novo* selection in the sense that there should be a fresh written test and interview confining to the candidates who had already submitted their applications pursuant to the Notification issued in 2004. There was no specific direction in the earlier judgment of the Division Bench to the effect that the District

Judge should call for fresh applications. There was a direction that for recruitment, instead of 1947 Rules, 1950 Rules should be followed for selection of the candidates and that of course, the District Judge is bound to follow. The contention of the learned counsel for the petitioners that the District Judge should call for fresh applications is not warranted either by the earlier judgment of the Division Bench or by the impugned judgment by the Division Bench. In the circumstances, we find no reason to interfere with the impugned judgment.

6. The candidates, who had been selected, filed a separate appeal praying that as regards these candidates against who no manipulations/interpolations are attributed in the answer sheets and their appointments shall be upheld as they had not resorted to any malpractice in the selection and the Division Bench was not justified in setting aside their selection especially when the Division Bench had upheld the selection of one driver and one stenographer. It may be noticed that out of 24 candidates selected it was noticed by the learned Single Judge as well as by the Division Bench that there were interpolations in the case of 21 candidates and when such large-scale malpractice was resorted to by the persons involved in the selection, it is not justifiable to uphold such selection and to grant relief to these appellants. Of course these appellants

are entitled to participate in the second selection.  
Accordingly, the appeals are disposed of. No costs.

.....CJI.  
(K.G. BALAKRISHNAN)

.....J.  
(P. SATHASIVAM)

NEW DELHI;  
9TH JULY, 2009.

