

PETITIONER:
TECH. EXECUTIVE (ANTI POLLUTION) WELFARE ASSOCIATION.

Vs.

RESPONDENT:
COMMISSIONER OF TRANSPORT DEPT. & ANR.

DATE OF JUDGMENT: 10/03/1997

BENCH:
K. RAMASWAMY, G.T. NANAVATI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

In view of the explanation given in the application for restoration of special leave petitions dismissed on 11th December, 1996 for default of non appearance of the counsel, although the case was called out twice, the order is recalled.

We have heard the counsel on merit. The appellant Association claims promotions of pollution Level Test Inspectors on par with Motor Vehicles Inspectors under the Motor Vehicles Act. Pursuant to a representation made by the appellant to open a channel of promotion to them, the Tribunal by order dated April 24, 1992 had directed the respondents to create posts and provided suitable promotional avenues and to set time for the said purpose. In the meanwhile, when the junior Motor Vehicles Inspectors were being considered for promotion by the D.P.C. as Motor Vehicle Inspectors, the appellant filed a petition in the Tribunal for implementation of the judgement and pointing out the contempt. Since the respondents, in the meanwhile, promoted motor Vehicle Inspectors, the appellant filed the application stating that the respondents had violated the order of the Tribunal. In the meanwhile, the Government have turned down the proposal for creation of the avenues for promotion of Anti-Pollution Level Test Inspectors. The appellant again filed a petition for contempt which was dismissed. Thus this appeal by special leave.

It would be seen that, admittedly, members of the appellant-Association are Technical Anti-Pollution Level Test Inspectors. Under the Motor Vehicles Act, the cadre of Motor Vehicle Inspectors has statutory base and, therefore, the Motor Vehicle Inspectors are distinct from T.A.P.L.T. Inspectors represented through the appellant-Association. When we had put a question to Shri Krishnamani, learned senior counsel, whether the appellants are entitled to claim under the statutory rules, to be on par with junior Motor Vehicle Inspectors, he admitted that they are not members of the same cadre or service and are not governed by the Rules. Therefore, they cannot have any parity with a statutory cadre officers. It would be for the appropriate Government

to take policy decision. The Tribunal is not competent to give directions to lay down the policy or to issue directions to create promotional avenues. Such a direction would amount to entrenching upon area of policy making which is exclusively within the purview of the appropriate Government. The Tribunal, therefore, was right in rejecting the application and holding that there was no contempt.

The appeal is accordingly dismissed. No costs.

JUDIS