

CASE NO.:
Special Leave Petition (civil) 2105 of 2001

PETITIONER:
DELHI HIGH COURT & ANR.

Vs.

RESPONDENT:
ATUL KUMAR SHARMA

DATE OF JUDGMENT: 25/07/2001

BENCH:
S.RAJENDRA BABU & SHIVARAJ V. PATIL

JUDGMENT:

J U D G M E N T
RAJENDRA BABU, J. :

A writ petition bearing No. C.W.P.No. 1218/89 was filed in the High Court by Atul Kumar Sharma calling in question the validity of the amendment made to the Delhi High Court Establishment (Appointments and Condition of Service) Rules, 1972 to the extent it amended the Rules excluding the Junior Translator from the feeder post for promotion to the post of Assistants, Caretaker and Junior Reader. A Division Bench of the High Court allowed the said writ petition holding that the High Court should follow the rule which provided promotional avenues to the Junior Translator also to the post of Assistants, Caretaker and Junior Reader. The promotions were to be effected on the directions issued by the High Court though monetary benefits were excluded in order to adjust the equities in the matter.

The question was whether the respondent would get the notional promotion to the post of Senior Translator and if so, whether the written test for promotion to the post of Superintendent to be held on September 9, 2000 would come in the way of prospects of the respondent. A Committee had been constituted to look into these matters to make recommendations pursuant to the decision of the Division Bench in C.W.P.No. 1218/89. A report had been received by the Chief Justice on 8.9.2000. Based on that report, provisional roll numbers were issued to all Senior Judicial Translators/Judicial Translators who had applied for appearing in the test for the post of Administrative Officer or Court Master. The respondent, however, did not accept the roll number assigned to him on the ground that there was hardly any time for preparation for the examination and that the recommendations made by the Administrative Committee of the Judges was also under challenge in another writ petition [C.W.P.No.6167 of 2000]. In view of the pendency of the writ petition, the Committee deferred finalization and fixation of notional seniority in respect of the respondent and other similarly situated persons.

An application [C.M.No.8257 of 2000] was filed in C.W.P.No. 1218/89 [which stood disposed of earlier] to direct a supplementary examination to be held to the post of Administrative Officer or Court Master on the ground that the respondent and others have not been given sufficient time for preparation as it was only on 8.9.2000 that he was informed that he has been allowed to appear in the test commencing

on the very next day. A Division Bench of the High Court allowed the application filed by the respondent and directed holding of the supplementary examination for the respondent and other similarly situated persons.

In challenging this decision of the High Court, two contentions are put forth on behalf of the appellants. Firstly that the High Court had already disposed of C.W.P.No. 1218/89 and, therefore, in such a matter a further application was not permissible. Secondly it is pointed out that there is another writ petition [C.W.P.No. 6167 of 2000] which is pending before the High Court challenging the recommendations made by the Administrative Committee of the Judges which would make persons situated as the respondent ineligible to take the examination for Administrative Officer or Court Master. Reliance is placed on the decision of this Court in State of U.P. vs. Brahm Datt Sharma & Anr., 1987 (2) SCC 179, to contend that when proceedings stand terminated by final disposal of writ petition it is not open to the court to reopen the proceedings by means of a miscellaneous application in respect of a matter which provided a fresh cause of action. The High Court distinguished the said decision on principle and held that the respondent is merely pursuing the relief granted in the earlier writ petition and not seeking for any fresh relief on the basis of a new cause of action. His contention has all along been that he is entitled to be promoted to the post of Administrative Officer or Court Master and subsequently to further higher posts. We do not know whether the writ petition [C.W.P.No. 6167 of 2000] has been disposed of or not and in fact, the outcome of that proceeding may or may not ultimately affect the rights of the parties. All that is sought to be done now is to hold a supplementary examination in respect of those candidates who had the benefit of the judgment in C.W.P.No. 1218/89 pursuant to the recommendations made by the Administrative Committee. Only when actual promotions are to be effected the rights of the parties have to be taken into consideration. The High Court directed holding of the supplementary examination only in the context of time being too short between the date of making a note to the concerned persons who were eligible to take the examination and the date of the examination and that time being too short the High Court felt that the supplementary examination should be held. When a very limited relief has been granted, we do not think any grave injustice would be caused to any party and, on the other hand, heart burn, if any, to member of the staff would be assuaged. Hence, we do not think the order of the High Court in appeal before us calls for interference.

This petition, therefore, stands dismissed. No costs.

.J.
[S. RAJENDRA BABU]

...J.
[K.G. BALAKRISHNAN]

NEW DELHI,
JULY 20, 2001.

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