

PETITIONER:
STATE OF U.P.

Vs.

RESPONDENT:
U.P. GOVERNMENT COUNSEL (CRL.) WELFARE ASSOCIATION

DATE OF JUDGMENT 18/10/1994

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
SEN, S.C. (J)

CITATION:
1995 AIR 575 1995 SCC Supl. (1) 15
JT 1995 (2) 490 1994 SCALE (4) 607

ACT:

HEADNOTE:

JUDGMENT:

ORDER

In this appeal, the only question is whether the High Court was justified in staying the operation of the Uttar Pradesh Government Litigation (Engagement of Counsel) Ordinance, 1991 (U.P. Ordinance No. 2 of 1991). It would appear that consequent to the decision of the Division Bench of the Allahabad High Court allowing CMWP No. 20182 of 1990 dated 12-11-1990, declaring that the Government had no power to dispense with the services of Standing Counsel appearing for the Government of Uttar Pradesh in the High Court at Allahabad as well as Lucknow Benches, the Governor issued the aforesaid Ordinance regulating the assignment of work of the government counsel and the payment of their fee for the work done by the counsel. The judgment of the Division Bench, which is the foundation for the Ordinance was questioned by the Government in this Court in State of U.P. v. U.P. State Law Officers' Assn.¹ This Court after considering the gamut of the controversy held that the law officers appointed by the Government to look after the work of the Government was only professional service as legal assistants and the service rendered by the counsel is only a service-oriented professional service. Therefore, they are not employees of the Government. The Government is entitled to regulate its work by prescribing the conditions subject to which the work of the Government could be entrusted to and be discharged by the counsel. It is one of trust and confidence. So long as the trust and confidence remain and maintained by the

+ From the Judgment and Order dated 17-1-1991 of the Allahabad High Court in W. No. Nil of 1991

¹ (1994) 2 SCC 204: 1994 SCC (L&S) 650: (1994) 26 ATC 906

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counsel, the Government would engage the counsel. The Government have the liberty to relieve a counsel for the

reason that they do not have confidence in the counsel. Since this Court had set aside the judgment of the Division Bench, obviously the respondent has lost interest in the matter and, therefore, none is appearing in the matter. This Court suspended the operation of the order of the Division Bench dated 17-1-1991 by order dated 8-2-1991 and made the interim suspension absolute. Under these circumstances, this appeal is allowed. The order dated 8-2-1991 is made final. We do not propose to express any opinion on merits of the Ordinance since it is a matter to be gone into by the High Court. The appeal is accordingly allowed. No costs.

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