

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).3575/2003

(From the judgement and order dated 18/11/2002 in CWP No. 17579/2001 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

RAJ KUMAR

Petitioner(s)

VERSUS

ROHTAS & ORS.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and with prayer for interim relief and office report))

Date: 28/03/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner(s)

Mr. S.K. Bansal, Adv.

Mrs. Savita Bansal, Adv.

Mr. Harbans Lal Bajaj, Adv.

For Respondent(s)

Mr. Subramonium Prasad, Adv.

Mr. J.B. Mudgil, Adv.

UPON hearing counsel the Court made the following

O R D E R

Special leave granted.

The appeal is allowed in terms of the signed order.

(Sheetal Dhingra)

(Vijay D

hawan)

Court Master

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.1841 OF 2005

[Arising out of SLP(C) No.3575 of 2003]

RAJ KUMAR
Appellant(s)

..

Versus

ROHTAS & ORS.
spondent(s)

..Re

O R D E R

Special leave granted.

We have heard counsel for the parties.

The facts not in dispute are that the appellant as well as respondent

No.1 were working as Safai Karamcharis in the respondent-Municipal

Committee. On the 1st March, 1999 the Municipal Committee selected the

appellant for promotion to the post of Safai Daroga. It is not disputed that the

eligibility conditions prescribed that the person to be appointed Safai Daroga

must be literate, inasmuch as he should have knowledge of Hindi. On the 1st of

March, 1999 the cases of appellant as well as respondent No.1 were considered

and the appellant was promoted to the post of Safai Daroga while respondent

was held ineligible for promotion since he was illiterate. It also appears from

the record maintained by the Municipal Committee, including the seniority list,

that respondent was shown as illiterate in the Municipal records.

Two and a half (2 1/2) years later respondent No.1 made a

representation to the Municipal Committee stating that he had knowledge of

Hindi and, therefore, necessary correction be made in the seniority list which

showed him as illiterate. The representation was allowed and accordingly the

seniority list of the year 1999 was amended in July, 2001 to show the respondent

as literate. Pursuant thereto the promotion granted to the appellant on

1st

March, 1999 was cancelled and in his place respondent No.1 was promoted as

Safai Daroga. The said order of the Municipal Committee was challenged but

the High Court has upheld the same.

The High Court took notice of the fact that in acknowledgment of payments

made to him, respondent No. 1 used to sign in Hindi. It also took notice of the

fact that the representation made to the Municipal Committee on 25.7.2001 was

in the Hindi language. It, therefore, concluded that respondent No.1 had

knowledge of Hindi and consequently, he was eligible for promotion on 1st

March, 1999.

We find it difficult to sustain the order of the High Court. The

question of promotion of the appellant as well as respondent No.1 was

considered on the 1st of March, 1999. The question is whether on that date

respondent No.1 was literate, in the sense that he had knowledge of Hindi. It

may be that after 2 1/2 (two and a half) years on 25.7.2001 respondent No.1

represented that he had knowledge of Hindi and, therefore, the seniority list be

amended to show him as literate having knowledge of Hindi. The prayer was

allowed and such an amendment was made in the seniority list. It may be that

on that date respondent No.1 had acquired knowledge of Hindi. But that is not

to say that on the 1st March, 1999 when the promotion was made, respondent

No.1 was literate having knowledge of Hindi. The fact that the representation

made by respondent No.1 in the year 2001 was in the Hindi language, is

no

ground to jump to the conclusion that he had knowledge of Hindi, or that in

March, 1999 also respondent No.1 was literate. We, therefore, find no

justification for cancelling the promotion already granted to the appellant on 1st

March, 1999 because the record as it stood then, and as the facts disclosed,

respondent No.1 on that date was not literate, inasmuch as he did not have

knowledge of Hindi. The record maintained by Municipal Committee

supported this conclusion. From such later date (25.7.2001) the respondent

No.1 may get benefit of his being literate but that benefit cannot be given to him

retrospectively from 1st March, 1999.

We, therefore, allow this appeal, set aside the impugned judgment

and order of the High Court dated 18.11.2002 passed in CWP No.17579 of 2001

and hold that the promotion given to the appellant as Safai Daroga on 1.3.1999

is legal and valid, and the appellant is, therefore, entitled to be reinstated with

all consequential benefits. We direct accordingly.

We clarify that as from 21st July, 2001 respondent No.1 may be

treated as literate having knowledge of Hindi, and any benefit on that account

that may accrue to him thereafter may be given to him in accordance with law.

No costs.

.....J.

(B.P. SINGH)

.....J.

(ARUN KUMAR)

New Delhi

March 28, 2005.