

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 6932 OF 2002

S. MADHAVA REDDY

Appellant (s)

VERSUS

EXECUTIVE OFFICER & ANR.

Respondent(s)

(With appln(s) for permission to file additional documents and office report))

Date: 18/02/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE G.S. SINGHVI

For Appellant(s) Mr. V.R. Reddy, Sr. Adv.
Mr. P. Venkat Reddy, Adv.
Mr. Anil Kumar Tandale, Adv.

For Respondent(s) Mr. B. Sridhar, Adv.
Mr. K. Ram Kumar, Adv.

UPON hearing counsel the Court made the following
ORDER

The appeal is allowed in terms of the signed order.

(Manish Vats) (Anand Singh)
Sr.PA Assistant Registrar
(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6932 OF 2002

S. Madhava Reddy

..... Appellant(s)

Vs.

Executive Officer & Anr.
Respondent(s)

.....

ORDER

In pursuance of a requisition dated 7.9.1991 from the respondent, the name of appellant, along with others, was sponsored by the Employment Exchange, for the post of Attender. A call letter was issued to him on 24.2.1992. After being interviewed, he was appointed as an Attender on 26.8.1992. On 26.7.1993, the Board resolved to terminate persons who were found to be over-aged, when appointed. In pursuance of it, a show-cause notice was issued to the appellant on 31.8.1993. The appellant submitted his reply dated 28.9.1993. Immediately thereafter, the appellant filed a writ petition seeking a direction that his service should not be terminated. On 30.12.1993, the High Court, by an interim order, directed that the appellant should be continued in service as Attender. The said writ petition was however ultimately dismissed by a learned Single Judge on 10.11.1999. The said order was challenged by the appellant in an intra-court appeal and by an interim order dated 13.12.1999, the appellant was enabled to continue in service. The appeal filed by the appellant was disposed of on 22.11.2000 recording the submissions of the standing counsel for the respondents that G.O.Ms.316/AD/1997 dated 28.4.1977 which set out the method of calculation of the maximum and minimum age for appointment would apply in the case of appellant and his case would therefore be considered accordingly. The respondents filed a petition seeking review alleging that their counsel had made a wrong concession with reference to G.O. dated 28.4.1977. The High Court allowed the review petition by order dated 21.9.2001. The said order is challenged in this appeal by special leave. This Court stayed the review order dated 22.10.2002.

2. We are of the view that on the facts and circumstances, the High Court was not justified in allowing the review petition. All that the counsel for appellant submitted during hearing of the writ appeal was that the G.O. dated 28.4.1977 applied to appellant and his case could be considered in accordance with the said G.O. The writ appeal was disposed of directing that the case of appellant may be considered in terms of the said G.O. If it was found that he was not entitled to the benefit of the G.O., a reasoned order could have been passed by the respondent in that behalf. On the facts and circumstances, no case was made out for review of the order dated 22.11.2000.

3. There was no misrepresentation or suppression by the appellant. The employment exchange sponsored his name and he was appointed after undergoing the selection process. If there was a wrong interpretation regarding method of calculation of maximum age, or waiver or relaxation of age retirement, resulting in appointment the employee should not be penalized for the same after being in service for a considerable time. It will be unfair to interfere with his appointment and service after all these years, on the ground that he was over-aged when he was appointed.

4. We, therefore, allow this appeal and set aside the order dated 21.9.2001 allowing the review petition.

[R. V. Raveendran]

[G. S. Singhvi]

New Delhi;
February 18, 2009.