

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 1753 OF 2007

GOVERNMENT OF NATIONAL CAPITAL TERRITORY
OF DELHI

Appellant (s)

VERSUS

RAJENDRA KUMAR AND OTHERS

Respondent(s)

O R D E R

el Heard Mr. T.S. Doabia, learned senior couns
appearing for the appellant and Mr. C.S.N. Mohan Rao, learned
counsel appearing for the respondents.

Union of India, feeling aggrieved by the judgment and
order pronounced by the Division Bench of the High Court of
Delhi in Writ Petition (Civil) Nos.14097-14100 of 2005
on
11.10.2006, is before us challenging the same on variety of
grounds.

are Thumbnail sketch of the facts of the case
mentioned hereinbelow:

ior Respondents nos.1 to 4 had joined as Sen
Scientific Officer on deputation with Forensic Scien
ce
Laboratory of Government of National Capital Territory
of
Delhi. While serving on deputation, they aspired for being
promoted to the post of Assistant Directors as they
had
requisite qualification and experience in this regar
d.

Admittedly, they had been working with the Forensic Science
Laboratory for a period of 7 to 12 years. They we
re

permanently absorbed in the said Department in the year 2002.

They requested the Government that their cases be considered

for promotion. The said request was rejected by the Government by its communication dated 12.05.2005.

The sole question before the Division Bench was whether earlier period of service rendered by them in other Departments on similar posts should be taken into consideration or not for the purpose of deciding their eligibility for promotion. It has not been disputed before us that all the respondents possessed requisite academic qualifications. The details of their other experience have been reflected in the impugned order of the Division Bench. For promotion to the post of Assistant Director from the feeder post of Senior Scientific Officer is 'five years regular service' in the cadre .

Even though they might have been absorbed in the said Laboratory in the year 2002, but the fact of the matter is that they had already been working in the said Laboratory for a period ranging from 7 to 12 years, which meets the requirement of experience of five years. The ground taken by the learned counsel appearing for the appellant that their experience has to be reckoned only from the year 2002, when they were absorbed in the Department, is neither logically correct nor legally tenable in view of the decision of this Court in "S.I. Rooplal and another versus Lt. Governor through Chief Secretary, Delhi and others" reported in AIR 2000 SC 594.

Learned counsel for the appellant has placed reliance

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on the Office Memorandum No.22011/7/86-Estt.(D) dated 3rd July, 2011, which cannot be considered for the first time in this appeal. We find from the order passed by the Tribunal as also the impugned order that no reference was made to the said memorandum.

The said office memorandum appears to have been issued by the Government of India. The legality and applicability of the memorandum to the employees of the National Capital Territory is doubtful and the respondents

never had an opportunity of contesting that aspect.

Therefore,

we are of the opinion that the appellant shall not be permitted to raise this question for the first time.

Thus, looking to the matter from all angles, we are of the considered opinion that this appeal has absolutely no merits. It is hereby dismissed with costs of Rs.25,000/-.

.....J.
(DEEPAK VERMA)

.....J.
(JASTI CHELAMESWAR)

NEW DELHI,
OCTOBER 13, 2011.

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ITEM NO.102

COURT NO.13

SECTION XIV

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

CIVIL APPEAL NO(s). 1753 OF 2007

GOVT. OF NATIONAL CAPITAL T. OF DELHI Appellant (s)

VERSUS

RAJENDRA KUMAR & ORS. Respondent(s)

(With appln(s) for stay and prayer for interim relief)

Date: 13/10/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK VERMA
HON'BLE MR. JUSTICE JASTI CHELAMESWAR

For Appellant(s) Mr. T.S. Doabia, Sr.Adv.
Mr. S. Wasim A. Qadri, Adv.
Mr. Mukesh Verma, Adv.
Mr. D.S. Mahra, A.O.R.[Not present]

For Respondent(s) Mr. C.S.N. Mohan Rao, Adv.
Mr. Lokesh Sharma, Adv.

UPON hearing counsel the Court made the following
O R D E R

In terms of signed order, the Civil Appeal is dismissed with costs of Rs.25,000/-.

(A.D. Sharma)

(S.S.R. Krishna)

Court Master
(Signed Order is placed on the file)

Court Master