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C.A.No. 2921 OF 2001  
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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 2921 of 2001@@  
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State of Tamil Nadu ...Appellant (s)

Versus

Rangaswamy & Ors. ...Respondent(s)

With

Civil Appeal Nos. 2922 to 2939 of 2001@@  
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Civil Appeal Nos. 3203-3204 of 2002@@  
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C.A. Nos.2921 - 2939 of 2001@@  
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The State of Tamil Nadu is the appellant assailing the judgment of the Division Bench of Madras High Court. The dispute centres round the question as to whether the State Government has the power and competence to frame rules and regulations determining the service conditions of the employees of different corporations which are in fact the Government companies under the Companies Act.

Be it stated that in the State of Tamil Nadu originally there were only four corporations and in course of time number of corporations grew to 23. Way back in the year 1984 the State Government drew up a seniority list of the employees belonging to the cadre of Assistant Manager and Deputy Manager on the basis of the continuous length of

service. The next promotional post from the post of Deputy Manager is the Senior Deputy Manager which post has come into existence at a later point of time. In 1987 when the question of promotion to the post of Senior Deputy Manager from the post of Deputy Manager cropped up for consideration the Government changed the criteria for determination of seniority in the cadre of Deputy Manager and on the other hand indicated that instead of entry into the cadre of Deputy Manager being the sole criteria for seniority in the cadre, weightage has to be given to their past services rendered in the cadre of Assistant Manager as well as the other supervisory cadre. The present respondents felt aggrieved by the aforesaid decision of the State Government and without impleading their employer, namely, the corporations, filed writ applications which were heard and disposed of by a learned Single Judge.

The contentions raised before the learned Single Judge

were that the subsequent change of decision of the Government in 1987 is arbitrary and illogical and affects the chances of promotion of the employees, who ought to have been governed by the principle that had been evolved in 1984. The prayer in the writ petition was to quash the 1987 decision and to implement the 1984 decision for the purpose of promotion to the post of Sr. Dy. Manager. The learned Single Judge while dismissing the writ petition was of the opinion that the

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policy/decision of 1984 create a lot of anomaly and several complaints had been received and to avoid such anomalies and to redress grievance of the employees the Government came forward with the decision of the 1987. According to the learned Single Judge the impugned decision of 1987 cannot be held to be arbitrary or irrational requiring interference of the Court under Article 226 of the Constitution of India.

Against the dismissal order passed by the learned Single Judge the employees carried the matter in appeal to the Division Bench. Before the Division Bench the contention was raised with regard to the competence of the State Government to frame rules and regulations determining the service conditions of the employees of the corporation though such a contention had not been raised before the learned Single Judge. The Division Bench entertained the said contention and being of the opinion that each of the corporations being an independent company under the Companies Act, have an independent existence and the service conditions of the employees of such corporations have to be determined by their employer, namely the Company and the State Government has no competence to frame rules determining the service conditions of the employees. The Division Bench also recorded a finding that there are no materials that these corporations have adopted a common rule in respect of the employees of the

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respective corporations.

Mr. V.R. Reddi, the learned senior counsel appearing for the State, raised two contentions in assailing the conclusion of the Division Bench of the High Court - one, the Division Bench committed error in deciding the question of competence of the Government to frame service conditions of the employees of the corporation without impleading the corporations who are the employers of the employees and it is the corporation on being present who alone could have answered the question as to whether the common rules have been adopted by the corporations for determining the service conditions of the employees pursuant to the direction and/or administrative order of the State Government. It was further contended by Mr. Reddy that such a contention not having been raised before the learned Single Judge in the writ petition, the Division Bench was not entitled to examine that question.

Mr T.L.V. Iyer, the learned senior counsel appearing for the employee respondents on the other hand contended that the question with regard to the competence of the State Government to frame rules and regulations for determination of service conditions of the employees of the corporations being a pure question of law there was no bar for the Division bench to entertain and decide the same. In answer to the first

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contention, Mr. Iyer contends that since it is the direction of the State Government which was under challenge, it was not

necessary to implead the employer-corporation as party-respondent and therefore the decision of the Division Bench need not be interfered with in exercise of power under Article 136 of the Constitution of India.

Having considered the rival contentions made at the bar and the conclusions of the learned Division bench of the Madras High Court, we have no manner of doubt that the corporations who are the employers of these employees should have been impleaded as party-respondent before considering the question as to whether a common seniority rule or rules regarding service conditions have been adopted by each of these corporations, which are independent entities in the eye of law, they being different companies under the Companies Act. It is true that ordinarily a contention not raised before the Single Judge ought not to have been allowed to be canvassed before the Division Bench. But, where no questions of fact is involved and the question is purely a question of law, more so, with regard to the competence of the State Government to frame a set of rules, we are of the opinion that it was open for the Division Bench to entertain that contention and answer the same but before arriving at any conclusion on that score, the Division Bench should have heard

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at least the corporations who are the real employers of these employees. Be it stated that these employees have accepted the rules of seniority which had been issued by the State Government in the year 1984 and they made a complaint only when in 1987 the rules framed by the Government became not beneficial to them.

In the aforesaid circumstances, we set aside the impugned judgment of the Division Bench of Madras High Court and direct that the writ appeals filed by the employees be heard and disposed of within a period of three months from today. It would be open for the corporations to seek impleadment before the High Court and on such an application being filed the High Court would do well to allow the impleadment and entertain their contentions including the contention that in fact they have adopted the rules of the Government by any decision of the Company. Needless to mention, the Division Bench would not only go into the question of competence of the State Government, but all other questions on merits. These appeals stand allowed accordingly.

Civil Appeal Nos. 3203-3204 of 2002@@  
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These appeals are directed against the judgment of the learned Single Judge of the Madras High Court which the learned Single Judge disposed of following the decision of the

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Division Bench of the Madras High Court which was the subject matter of challenge in Civil Appeal No.2921 of 2001. In view of our order in Civil Appeal No.2921/01 the impugned judgment is set aside and the matter is remitted back to the learned Single Judge to await decision of the Division Bench. The appeals stand disposed of accordingly.

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( G.B. PATTANAIAK )@@  
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New Delhi;  
September 12, 2002

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( K.G. BALAKRISHNAN )@@  
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ITEM No.101 COURT No. 1 SECTION XII

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. 2921 of 2001@@  
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State of Tamil Nadu ...Appellant (s)  
Versus  
Rangaswamy & Ors. ...Respondent(s)

With

Civil Appeal Nos. 2922 to 2939 of 2001  
(With office report)

Civil Appeal Nos. 3203-3204 of 2002  
(With appl(s) for exemption from filing c/c of the impugned judgment)

Date :12/09/2002 The appeal(s)/matter(s) was/were called on for  
hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK  
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Appellant (s) Mr. V.Krishna Murthy, Adv.

Mr. V R Reddy, Sr. Adv.  
Mr. R Muthukumarswamy, Sr.Adv.  
Mr. V Balaji, Adv.  
Mr. P N Ramalingam, Adv.

Mr. G.Umapathy, Adv.  
Mr. Rakesh K. Sharma, Adv.

For Respondent (s) Mr. T.L. Viswanath Iyer, Sr. Adv.

Mr. K V Viswanathan, Adv.  
Mr. K V Venkataraman, Adv.  
Mr. Kunwar Ajit Mohan Singh,Adv.

Mr. K V Vijaykumar, Adv.

UPON hearing counsel, the Court passed the following  
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CA No. 2921/01@@  
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Mr. V.R. Reddy, Sr. Advocate commenced his arguments at 10.35 a.m. and concluded at 10.55 a.m. Then Mr. Iyer, Sr. Advocate for the respondents argued the matter for 15 minutes when the Court dictated the order. The appeal stands allowed in terms of the signed order.

C.A. Nos. 3203-3204/02@@  
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These appeals stand disposed of in terms of the order  
in CA 2921/01.

(J.S. Rawat)  
Court Master

(Suneet Bala Sharma)  
Assistant Registrar

(Consolidated signed order is placed on the file)