

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S).8188 OF 2001@@
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Vithal Talwar & Anr.

Appellant(s)

VERSUS

State of Goa & Ors.

Respondent(s)

(with office report)

DATE: 21-1-2003 This matter was called on for hearing today.@@
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CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) : Mr. RS Rathi, Adv. for
Mr. Naresh Kumar, Adv.

For Res. No.1 : Mr. Bhavanishankar V Gadnis, Adv.
Mr. HA Raichura, Adv.

For Res. No.2 : Mr. HL Agrawal, Sr. Adv.
Mr. HA Raichura, Adv.

Mr. Prashant Kumar, Adv.
Ms. Triveni Poteker, Adv. for
Mr. CS Ashri, Adv.

UPON hearing counsel the Court made the following
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Mr. RS Rathi, learned counsel for the appellant started his arguments at 3.25 pm and concluded at 3.35 p.m. Thereafter learned counsel for the respondents made their submissions for a few minutes.

The appeal is dismissed in terms of the signed order with no order as to costs.

.SP1

(D.L. Chugh)
Court Master

(Shelly Sen Gupta)
Court Master

Signed order is placed on the file

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CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.8188 OF 2001@@
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Vithal Talwar & Anr.Appellants

VERSUS

State of Goa & Ors.Respondents

O R D E R@@
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In Writ Petition No.329 of 1996 the promotion of Respondent Nos.3 and seniority of Respondent Nos.3,4 and 5 had been challenged. Respondent Nos.4 and 5 in the said writ petition are the appellants herein. The said writ petition No.329 of 1996 was disposed of with the following directions:

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"A review D.P.C. shall be held from year 1992, that is to say, from the time of promotion of Nirmala Humchimani and the D.P.C. shall record finding on the issues relating to roster/ de-reservation/carry forward/ lapsing/ exchange and backlog vacancies as well as the question as to whether the Respondent No.5 would be entitled to be considered in the Scheduled Tribe Category. It goes without saying that the seniority shall be governed by the principles laid down by the Apex Court in Ajit Singh Juneja and others vs. State of Punjab and others (1996 (II) LLJ 154) and the Department shall decide the seniority after giving due opportunity to the Parties. This review shall be done by the review D.P.C. within a period of 3 months."

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Pursuant to the said order seniority list was prepared. The present appellants challenged the seniority ...2/-

- 2 -

list before the High Court in the writ petition. The High Court, by the impugned order dismissed the same pointing out that these very appellants were respondent Nos.4 and 5 in Writ Petition No.329 of 1996, as has already been stated above. The authorities following the directions given in the said writ petition prepared the seniority list; the appellants did not contend that the directions given in the writ petition No.329 of 1996 were not followed; it was also not the case of the appellants that the principles stated in Ajit Singh Juneja vs. State of Punjab (1996 (II) L.L.J. were also not followed. The High Court proceeded to say that when the petitioners (appellants herein) having been parties to the earlier Writ Petition No.329 of 1996 are bound by the

directions given therein; once the seniority list was prepared pursuant to the directions given therein, it was not open to the petitioners to re-agitate the issue. In this view that petition was dismissed Hence the present appeal is filed aggrieved by the said order of the High Court.

The learned counsel for the appellants before us challenged the seniority list on various grounds making complaint that the authorities prepared the list arbitrarily. As pointed out by the High Court in the impugned order that the appellants did not challenge the seniority list on the ground that it was not prepared as per the directions given ..3/-

- 3 -

in the earlier writ petition. Hence, it is not open to the appellants to challenge the same at this stage. The High Court, in our opinion, was right and this appeal has no merits. Consequently, the same is dismissed. No costs.

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.....J.@@
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(SHIVARAJ V. PATIL)@@
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.....J.@@
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(ARIJIT PASAYAT)@@
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New Delhi,
January 21, 2003