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C.A.No. 3128 OF 1997

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3128 OF 1997

HON'BLE CHIEF JUSTICE (PRESENTLY THE HON'BLE ACTING CHIEF JUSTICE OF THE HIGH COURT & ANR.

.....

APPELLANT(S)

:VERSUS:

PRABIR SINHA ROY & ORS.

.....

RESPONDENT(S)

O R D E R

The dispute in this appeal relates to the appointment of Lower Division Assistants in the Calcutta High Court. It appears that initially recruitment process was put into motion in respect of the then 8 existing vacancies and 12 likely vacancies in future. But later on, the scope was enlarged and with the approval of the then Chief Justice, a second test was also held, on the basis of which, apart from the first list, a second list was also prepared. Needless to mention that it was a long list made, perhaps without keeping in mind the vacancies or the likely vacancies and the proportion thereof.

However, we feel it is not necessary to go into the details as it appears that from time to time notes had been put up before the Chief Justice by the Registrar of the High Court on the original side as well as on the appellate side. It also appears that, at one stage, some approval was taken for filling up the vacancies on both sides of the Registry, out of the second list prepared for recruitment. Ultimately, what we find relevant is that some time in December 1993, the Chief Justice extended the life of the second list up to 31st December, 1994. On perusal of the order passed by the Division Bench it transpires that some appointments were also made from the second list, whereafter it appears that though the vacancies existed but the appointments were not made from the list which was approved by the Chief Justice for the period upto December 1994.

In the above circumstances, the respondents filed a writ petition in the High Court on 6.12.1994 but according to the respondents it was filed on 21.11.1994. In any case much does not turn up on that since it was filed during the currency of the second list prepared, i.e. before 31.12.1994, out of which some appointments had also been made. The reason for not making further appointments from the said list, as indicated, is that yet another note was prepared by the Registrar on the Appellate side, some time in January 1994, and the Chief Justice is said to have approved the same that in future such a long list may not be prepared and in respect of the vacancies as existed in the year 1994, it was provided that steps for preparation of panel for appointment as Lower Division Assistants on the Appellate side of the Registry be taken. However, other part of the approved note does not indicate any such decision having been taken for preparation of any list for the year 1994, as it appears that a list was already there having approval by the Chief Justice about its validity having been extended upto 31.12.1994. The facts noted above coupled with the fact that the appointments were made from the second list as well, we find no good reason to interfere in the order passed by the Calcutta High Court directing the appellant to make appointments of the writ petitioners-respondents herein, in respect of the vacancies which were existing in the year 1994. It was also made clear that the

benefit of that order would be available to the petitioners who had approached the High Court . We find that there is also an order passed by the Division Bench that six posts shall be kept vacant and reserved pending disposal of the matter.

In the circumstances indicated above, we decline to entertain the request made on behalf of the intervenor for consideration of his case as well, along with cases of the respondents. Admittedly the application to intervene was moved in the year 1997, that is to say 3 years after the list had lapsed. Learned counsel appearing for the respondents Nos.1, 2, 3, 5 & 6 informs that out of the above noted respondents only respondent Nos.1, 3 & 5 have subsisting interest in the matter and not the other two respondents (i.e. respondent Nos.2 & 6).

In view of the discussions held above, we dismiss the appeal as well as the prayer of the intervenor. However, there would be no order as to costs.

.....J
(BRIJESH KUMAR)

.....J
(ARUN KUMAR)
NEW DELHI;
MARCH 17, 2004.

ITEM NO.102COURT NO.10SECTION-XVI

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.3128 OF 1997

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.....
APPELLANT(S)

:VERSUS:

PRABIR SINHA ROY & ORS.

.....
RESPONDENT(S)

(With Appln.(s) for impleading party and with Office Report)

Date : 17/03/2004 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE BRIJESH KUMAR
HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)Mr. T.C. Ray, Sr.Adv.
Mr. H.K. Puri,Adv.
Mr. Ujjwal Banerjee,Adv.
Mr. S.K. Puri,Adv.
Mr. Shiv Gupta,Adv.

For Respondent (s)Mr. Deepankar P. Gupta, Sr.Adv.
Ms. Sangeeta Mandal,Adv.
Mr. Kapil Chaudhary,Adv.
Ms. Swati Sinha,Adv.
Ms. Jayasree Singh,Adv.
for M/s. Fox Mandal & Co.

Mr. N.R. Choudhary,Adv.
Mr. Somnath Mukherjee,Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties for about two hours.

The appeal as well as the prayer of the intervenor is dismissed in terms of the signed order.

There would be no order as to costs.

(A.S. BISHT)(PROMILA NAGPAL)
COURT MASTER

COURT MASTER

(Signed order is placed on the file)