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SLP(C)No. 8904 OF 2003
ITEM No.210

Court No. 9

SECTION XIV
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.8904/2003

(From the judgement and order dated 07/01/2003 in CWP 124/03
of The HIGH COURT OF DELHI AT N. DELHI)

S.M. VERMA

Petitioner (s)

VERSUS

UNION OF INDIA & ANR.
(With Office Report)
(For Final Disposal)

Respondent (s)

Date : 08/04/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s)Mr. Naresh Kaushik, Adv.
Ms. Shilpa Chohan, Adv.
Mrs. Lalita Kaushik,Adv.

For Respondent (s)Mr. L.N. Rao, A.S.G.
Ms. Smeeta I., Adv.
Mr. Shreekant N. Terdal,Adv.

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

Leave granted.
The appeal is disposed of in terms of the signed order.
No order as to costs.

(N. Annapurna)
Court Master

(Veera Verma)
Court Master

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2004
(Arising out of S.L.P.(C) No.8904 of 2003)

S.M. Verma
...Appellant

Versus

Union of India & Anr.
...Respondents

O R D E R

Leave granted.

Heard learned counsel on both sides.

The appellant herein filed a O.A. before the Central Administrative Tribunal alleging that he was illegally superseded in the promotion to the grade of Superintending Engineer (Civil). Out of seven Annual Confidential Reports (ACRs), for six years he had consistent report of 'Very Good' and for the seventh year, his report was downgraded to 'Good'. He alleged that he was not given any communication regarding the downgrading and this resulted in his not being promoted to the cadre of Superintending Engineer (Civil). He contended that he should have been given an opportunity to make representation against the downgrading or else the DPC should not have acted upon such a report. Considering the plea of the appellant, the Central Administrative Tribunal, by its order dated March 22, 2000, made, inter alia, the following order:

"....., we feel it is a fit case to call upon respondents to communicate the downgraded entry to applicant within six weeks of receipt of a copy of this order, and grant applicant six weeks thereafter to file a representation, if any against the same. Thereafter respondents will dispose of that representation in accordance with rules and instructions and if the downgraded is upgraded, respondents shall consider applicant's case for promotion as S.E. (Civil) with effect from the date of his junior Shri B.B.Bhatia was so promoted by order dated 4.9.95. We direct accordingly and call upon respondents to implement these directions in full as expeditiously as possible and preferably within 6 months from the date of receipt of a copy of this order."

This order passed by the Tribunal was challenged by the appellant by way of a writ petition before the High Court of Delhi. It may be noticed that meanwhile, against the very same impugned order, the respondent-Union of India had filed a writ petition before the High Court and the same was dismissed and, aggrieved by the same, a special leave petition was filed in this Court which has also resulted in dismissal. The Division Bench of the High Court was of the view that in view of the dismissal of the writ petition and the special leave petition filed by the Union of India, the writ petition filed by the appellant herein could not be entertained.

We do not think that the view taken by the Division Bench is correct. The writ petition filed by the appellant herein against the order passed by the Tribunal should have been considered on its own merits. Therefore, we set aside the impugned order of the High Court and direct the writ petition filed before the High Court by the appellant herein be considered afresh on its own merits and appropriate orders be passed.

We also notice that pursuant to the impugned order passed by the Tribunal, the respondent-Union of India has passed an order on November 6, 2002 rejecting the appellant's prayer for removal of downgrading entries. We make it clear that the appellant would be at liberty to take appropriate proceedings against that order passed by the Union of India.

The appeal is disposed of accordingly.

No order as to costs.

.....J.

(K.G. BALAKRISHNAN)

.....J.

(B.N. SRIKRISHNA)

New Delhi,
April 08, 2004.