

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.13675-13676 OF 2015
(SPECIAL LEAVE PETITION(CIVIL) NOS. 17035-17036 OF 2013)

UNION OF INDIA & ORS. . . APPELLANT(S)

VERSUS

THE REGISTRAR & ANR. . . RESPONDENT(S)

O R D E R

1. Leave granted.

2. The challenge by the Union of India is against an order of the High Court by which the directions issued by the Central Administrative Tribunal, details of which are being noticed herein below, have been affirmed and the writ petition filed by the appellant-Union of India has been dismissed.

3. The respondent no.2 viz. N.S. Poonusamy worked as an Extra Departmental Agent in the Postal Department from the year 1968 to 1993. He was regularized on 01.04.1993 and retired on 31.05.2002. The second respondent had completed nine years and two months of service but he was not granted any pension. Therefore, he approached the learned Tribunal which directed that

a Scheme be framed to give some benefit of service rendered by such employees as Extra Departmental Agents so as to enable them to earn the requisite period of qualifying service for pension i.e. 10 years. Aggrieved, the Union of India moved the High Court by way of a writ petition out of which these appeals have arisen.

4. We have heard the learned counsel for the appellant-Union of India and Mr. Nidhesh Gupta, learned Senior Counsel appointed as an amicus curiae by this Court.

5. During the pendency of these appeals, the Union of India-Appellant has passed orders granting regular pension to the second respondent and there is no issue or dispute that the said respondent is drawing such pension. The question as to the correctness of the direction issued by the Tribunal and approved by the High Court for framing a Scheme, therefore, is the only live issue.

6. Reading the order(s) of the learned Tribunal and the High Court, we find that the direction in question has been issued on the basis of a Circular of the

DOP&T issued in the year 1991 which provides service rendered by an Extra Departmental Agent to the extent of 50% of the period thereof to be added to the period of regular service for the purpose of entitlement to pension.

7. The appellant-Union of India has filed an additional affidavit on 26.10.2015 stating inter alia that the Extra Departmental Agents covered by the DOP&T Circular, 1991, are full time casual employees, whereas the second respondent is a part time casual employee and under the Rules governing his service framed in the year 1964 and amended in the years 2001 and 2011, employees like the respondent no. 2 are required to render between three to five hours of service every day. At the time of their appointment they are required to give an undertaking to the effect that they have alternative source of income to support their families. The need for appointment of such employees, according to the Union of India, is to reach out to the addresses in far flung villages in the country where establishment and maintenance of a regular post office is not a viable proposition. Attention is also drawn to the provisions of the

aforesaid Rules to the effect that such employees are not entitled to pension but would be entitled to ex-gratia gratuity and such of the payments as may be decided by the Government from time to time.

8. Considering the fact that the DOP&T Circular, 1991, which form the basis of the impugned direction of the learned Tribunal as affirmed by the High Court, pertained to full time causal employees to which category the second respondent does not belong and the provisions of the Rules governing the conditions of service of the respondent as noted above, we are of the view that the impugned directions ought not to have been passed by the learned Tribunal and approved by the High Court. The matter pertains to policy and involves financial implications. That apart, in view of the facts placed before us, as noted above, we deem it proper to interfere with the impugned directions and allow these appeals filed by the Union of India. We, however, make it clear that the pension granted to the second respondent will not be affected by this order and the said respondent will continue to enjoy the benefit of pension in accordance with the provisions of law.

9. Consequently, the appeals are allowed. We record the appreciation for the service rendered by Shri Nidhesh Gupta, learned amicus curiae.

.....J.
[RANJAN GOGOI]

NEW DELHI
24TH NOVEMBER, 2015

.....J.
[N.V. RAMANA]

ITEM NO.1

COURT NO.8

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal(C) No(s). 17035-17036/2013

(Arising out of impugned final judgment and order dated 18/07/2012 in WP No. 23638/2003,18/07/2012 in MP No. 29206/2003 passed by the High Court Of Madras)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

THE REGISTRAR & ANR.

Respondent(s)

(With interim relief and office report)

Date : 24/11/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s) Mr. Dhruv Sheoran,Adv.
Mr. D. S. Mahra,Adv.

For Respondent(s) Mr. Nidesh Gupta,Sr.Adv. (AC)

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

Leave granted.

The appeals are allowed in terms of the signed order.

(MADHU BALA)
COURT MASTER

(Signed order is placed on the file)

(ASHA SONI)
COURT MASTER