

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3545 OF 2005

UNION OF INDIA & ORS.

... APPELLANTS

VERSUS

PAWAN KUMAR & ORS.

...

RESPONDENTS

O R D E R

The appellant is aggrieved by the directions issued by the Tribunal

which run as under :

(i) "The respondents are directed to examine the case of the applicants

in the light of Clause © of Annexure A/12 & A/13 to A/14 and A/20,

and the decisions passed by this Tribunal in earlier OA 562/92 and in

the light of paras 16 and 18 of the decision of Hon'ble Gauhati High

Court, as discussed hereinabove.

(ii) After examining the matter of the applicants, as directed hereinabove

to consider their absorptions/appointment against vacant posts on

temporary basis to the post of Assistant Compilers because of the

2

fact that the applicants have become over aged with the passage of

the time, and they have also lost their seniority position in employment exchange, and in spite of necessary guidelines for absorptions of such retrenched employees, they have to be absorbed till date.

(iii)The entire exercise in this regard be done within the period of four months from the date of receipt/ production of a copy of this order."

Mr. T.S. Doabia, learned senior counsel appearing for the appellant

was of the view that direction No.(ii) is considered to be a direction for absorption and appointment. In our view, this is misreading of the direction. The direction No.

(ii) would mean the direction for considering the appointment/ absorption against the

vacant post on temporary basis. Mr. Doabia again pointed out that the post of

Assistant Compiler is a promotional post and, therefore, such direction for

consideration cannot be granted. It is, however, conceded by Mr. Doabia that the

cases of the respondents can also be considered for appointment/absorption

against the vacant posts on temporary basis for the posts of LDCs/Assistant

Compilers subject to their possessing requisite qualifications in terms of paragraph

18 of the judgment rendered by this Court in Union of India and others vs. Dinesh

Kumar Saxena and others, 1995 (3) SCC 401. We, accordingly, clarify that

direction to consider the cases of the respondents for appointment/absorption

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against the vacant posts on temporary basis is subject to the requisite qualification for the post of LDC/Assistant Compiler in terms of the concession and direction by this Court in paragraph 18 of the judgment in Dinesh Kumar Saxena (supra). We also clarify that if there exists any vacancy the appellant may notify the vacancy and consider the cases of the respondents within a period of four months from today. If there is no vacancy in existence at present, the cases of the respondents may be considered immediately against the vacancy whenever it occurs.

With the aforesaid modification and clarification this appeal is disposed of.

.....J.

(H.K. SEMA)

....

.....J.

(D.K. JAIN)

NEW DELHI,
AUGUST 30, 2006.

ITEM NO.104

COURT NO.7

SECTION 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(s). 3545 OF 2005

UNION OF INDIA & ORS.

Appellant (s)

VERSUS

PAWAN KUMAR & ORS.

Respondent(s)

(With appln(s) for permission to file rejoinder affidavit, permission to file additional documents and prayer for interim relief)

Date: 30/08/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE D.K. JAIN

For Appellant(s)

Mr. T.S. Doabia, Sr.Adv.

Ms. Sunita Sharma, Adv.

Mr. D.S. Mahra, Adv

Ms. Sushma Suri, Adv.

For Respondent(s)

Mr. Badri Prasad Singh, Adv.

Mr. Rudreshwar Singh, Adv.

Mr. Sushir Pinaki, Adv.

Mr. Kaushik Poddar, Adv.

Mr. Kumar Ranjan, Adv.

Mr. Anil Gaur, Adv.

Mr. Sanjay Jain, Adv.

5

UPON hearing counsel the Court made the following

O R D E R

Mr. T.S. Doabia, learned senior counsel started his arguments at 2.25 p.m. and concluded at 3.35 p.m. Hearing concluded.

With the modification and clarification this appeal is disposed of in terms of the signed order.

(PAWAN KUMAR)

(ANAND SINGH)

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COURT MASTER

(signed order is placed on the file)