

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE/ORIGINAL JURISDICTION

CIVIL APPEAL NOS. 8169-8235 OF 2014

[ARISING OUT OF S.L.P. (C) NOS. 7934-8000 OF 2009]

RAJENDRA PRATAP & OTHERS

... APPELLANT(s)

Versus

STATE OF BIHAR AND OTHERS

.. RESPONDENT(s)

WITH

CONTEMPT PETITION (C) Nos. 200-266 OF 2009

IN

S.L.P. (C) NOS. 7934-8000 OF 2009

BHUTELI PRASAD & OTHERS

... PETITIONER(s)

Versus

BHRIGUNATH UPADHYAY AND OTHERS

.. RESPONDENT(s)

O R D E R

S.L.P. (C) NOS. 7934-8000 OF 2009:

Leave granted.

2. After arguing for some time, the consensus emerged among Mr. Guru Krishna Kumar, learned senior counsel for the appellants and Mr. Ranjit

Kumar, learned Solicitor General for the following order:

(i) The impugned order does not call for any interference by us.

(ii) However, no recovery shall be made from the appellants in respect of the service rendered by them on promotional post under the reserved quota.

(iii) The appellants though are not entitled to promotion under the reserved category from 11.6.1996, but their right of consideration of promotion in the 'general category' shall not be affected. As and when the appellants become entitled to promotion under the 'general category', they will be promoted accordingly in that category.

(iv) The appellants shall be treated as recruitees from 'general category' for all intents and purposes. However, their promotion in reserved category before 11.6.1996 in the peculiar circumstances

shall remain protected up to 11.6.1996.

3. We order accordingly. Civil Appeals are disposed of as above. No costs.

CONTEMPT PETITION (C) NOS. 200-266 OF 2009:

In view of disposal of civil appeal Nos. 7934-8000 of 2009, no further order needs to be passed in the contempt petitions. These are disposed of.

.....CJI.
(R.M. LODHA)

.....J.
(MADAN B. LOKUR)

NEW DELHI;
AUGUST 25, 2014

.....J.
(KURIAN JOSEPH)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 8236-8237 OF 2014

[ARISING OUT OF S.L.P. (C) NOS. 8763-8764 OF 2009]

AWADESH RAM & ANOTHER

... APPELLANT(S)

Versus

STATE OF BIHAR AND OTHERS

.. RESPONDENT(S)

O R D E R

Leave granted.

2. After arguing for some time, the consensus emerged among Mr. Akhilesh Kumar Pandey, learned counsel for the appellants and Mr. Ranjit Kumar, learned Solicitor General for the following order:

(i) The impugned order does not call for any interference by us.

(ii) However, no recovery shall be made from the appellants in respect of the service rendered by them on promotional post under the reserved quota.

(iii) The appellants though are not

entitled to promotion under reserved category from 11.6.1996, but their right of consideration of promotion in the 'general category' shall not be affected. As and when the appellants become entitled to promotion under the 'general category', they will be promoted accordingly in that category.

(iv) The appellants shall be treated as recruitees from 'general category' for all intents and purposes. Moreover, their promotion in reserved category before 11.6.1996 in the peculiar circumstances shall remain protected up to 11.6.1996.

3. We order accordingly. Civil Appeals are disposed of as above. No costs.

.....CJI.
(R.M. LODHA)

.....J.
(MADAN B. LOKUR)

NEW DELHI;
AUGUST 25, 2014

.....J.
(KURIAN JOSEPH)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8168 OF 2014

[ARISING OUT OF S.L.P. (C) NO. 7854 OF 2009]

RAJIVE NANDAN MOURYA

... APPELLANT(s)

Versus

STATE OF BIHAR AND OTHERS

.. RESPONDENT(s)

O R D E R

Leave granted.

2. In the course of hearing, Dr. Krishan Singh Chauhan, learned counsel for the appellant invited our attention to the rejoinder-affidavit filed by the appellant to the counter-affidavit of the respondent No. 1 - State of Bihar. In the rejoinder-affidavit, it is stated that the case of the appellant was one of the involuntary migration due to the employment of his father in the State of Bihar and having been born and brought up in the State of Bihar, he suffers the same disability particular to his caste.

3. Since, this fact is averred by the appellant for the first time in the rejoinder-affidavit before this Court which was not the plea set-up by him in the writ petition before the High Court, having regard to the importance of the matter insofar as the appellant is concerned, we are satisfied that matter needs to be considered afresh by the High Court.

4. We, accordingly, remand the matter to the High Court for fresh hearing and consideration of the writ petition being CWJC No. 16097 of 2007, titled "*Rajive Nandan Mourya vs. The State of Bihar and others*". The appellant is permitted to amend the writ petition on the above lines. It will be open to the respondents to traverse the claim of the appellant by filing counter-affidavit. The High Court may direct the residence and caste claim of the appellant being verified by the appropriate authority before hearing the matter.

5. Civil Appeal is allowed as above. CWJC No. 16097 of 2007, titled "*Rajive Nandan Mourya vs. The State of Bihar and others*" is restored to the

file of the High Court for fresh hearing and disposal as noted above.

6. We are informed that the appellant has already been reverted on 22.11.2007. His reversion will be subject to the final decision in the writ petition before the High Court. Needless to say that no recovery shall be made by the State during the period the appellant worked on the promotional post as reserved category candidate before his reversion. No costs.

.....CJI.
(R.M. LODHA)

.....J.
(MADAN B. LOKUR)

NEW DELHI;
AUGUST 25, 2014

.....J.
(KURIAN JOSEPH)

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). 7854/2009

(Arising out of impugned final judgment and order dated 04/03/2009
in CWJC No. 16097/2007 passed by the High Court Of Patna)

RAJIVE NANDAN MOURYA

Petitioner(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

WITH

SLP(C) No. 7934-8000/2009

(With appln.(s) for de-tagging and exemption from filing OT and
permission to file additional documents and exemption from filing
OT and intervention and Interim Relief and Office Report)

SLP(C) No. 8763-8764/2009

(With appln.(s) for urging addl. grounds and Interim Relief and
Office Report)

CONMT.PET.(C) No. 200-266/2009 In SLP(C) No. 7934-8000/2009

(With appln.(s) for Office Report)

Date : 25/08/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)

SLP 7854

Dr. Krishan Singh Chauhan, Adv.

Mr. Ajit Kumar Ekka, Adv.

Mr. Ravi Prakash, Adv.

Mr. Chand Kiran, Adv.

Mr. Murari Lal, Adv.

SLP 7934-8000

Mr. Gurukrishna Kumar, Sr. Adv.

Mr. Devashish Bharuka, Adv.

Mr. Vaibhav, Adv.

SLP 8763-8764

Mr. Akhilesh Kumar Pandey, Adv.

Ms. Swati Chandra, Adv.

CP 200-266

Mr. M. Vijaya Bhaskar, Adv.

For Respondent(s)

Mr. Ranjeet Kumar, SG

Mr. Chandan Kumar, Adv.

Mr. Manish Kumar, Adv. for

Mr. Gopal Singh, Adv.

: 2 :

Mr. Amit Pawan, Adv.

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

S.L.P. (C) No. 7854 of 2009:

Leave granted.
Civil Appeal is allowed in terms of signed order. No costs.

S.L.P. (C) Nos. 7934-8000 of 2009:

Leave granted.
Civil Appeals are disposed of in terms of signed order. No costs.

Contempt Petition (C) Nos. 200-266 of 2009:

Contempt Petitions are disposed in terms of signed order.

S.L.P. (C) Nos. 8763-8764 of 2009:

Leave granted.
Civil Appeals are disposed of in terms of signed order.

(PARDEEP KUMAR)

AR-cum-PS

(RENU DIWAN)

COURT MASTER

[THREE SIGNED ORDERS ARE PLACED ON THE FILE]