

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5067 OF 2006

SHIBU AND ORS.

..APPELLANT(S)

VERSUS

STATE OF KERALA AND ORS

..RESPONDENT(S)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Kerala at Ernakulam in W.A. No.824 of 2002, dated 23.10.2002, whereby and whereunder the High Court allowed the Writ Appeals filed by Respondent Nos.4 and 5.

2. The brief facts of the case are that Respondent Nos.4 and 5 were lecturers in Technical Education Service and aspired for promotion as Head of Section. As per the Special Rules for the Kerala Technical Education Service (Amendment Rules), 1989 (for short "the Special Rules"), the eligibility criteria for promotion from lecturer to Head of Section include *inter alia* a degree in Engineering and eight years experience in the Engineering profession with at least three years experience as

lecturer not below the diploma level in recognized/approved institutions.

3. The Respondent Nos.4 and 5 had five years experience in the engineering profession, including their experience prior to appointment in Technical Education Service. However, the Departmental Promotion Committee was of the opinion that the experience gained prior to appointment could not be taken into consideration for the purpose of meeting the eligibility criteria for promotion to Head of Section. Aggrieved by the said decision of the Departmental Promotion Committee, Respondent Nos.4 and 5 filed a Writ Petition before the learned Single Judge of the High Court. The learned Single Judge in its judgment and order in O.P. No.34896 of 2001, dated 04.02.2002, did not finally decide the matter but directed the Government of Kerala to issue a clarification regarding the interpretation of the Special Rules.

4. Being aggrieved by the said judgment and order passed by the learned Single Judge, Respondent Nos.4 and 5 carried the matter in appeal before the Division Bench of the High Court. The Division Bench of the High Court allowed the Writ Appeal, and held that the Government

could not make a clarification against the wordings of the Special Rules. Upon a close examination of the Special Rules it was clear that experience prior to appointment must also be taken into consideration for the purpose of meeting the eligibility criteria for promotion to Head of Section. Accordingly, the High Court directed the Government of Kerala to grant the benefit of promotion to Respondent Nos.4 and 5 in accordance with the Special Rules.

5. Being aggrieved by the said judgment and order passed by the High Court, persons who are either lecturers or Heads of Section in Technical Education Service- the appellants herein are before us in this appeal.

6. We have heard the learned counsel appearing for the parties to the *lis*.

7. Learned counsel for the appellants would assail the judgment and order passed by the High Court and submit that the experience gained prior to obtaining the basic qualification for promotion, that is a degree in engineering, must not be taken into consideration while

determining the experience gained by lecturers for meeting the eligibility criteria for promotion to Head of Section. Without taking into consideration this aspect of the matter, Respondent Nos.4, 5 and other persons similarly placed have been wrongfully promoted prior to the appellants. As a result, these persons have wrongfully obtained seniority over the appellants in the Technical Education Service.

8. *Per contra*, learned counsel for the respondents would support the judgment and order passed by the High Court.

9. After going through the judgments and orders passed by the High Court and also carefully perusing the material on record we are of the opinion that the appellants have failed to show any sound reason to interfere with the judgment and order of the High Court.

10. The appeal being devoid of merit deserves to be dismissed and is dismissed accordingly.

Ordered accordingly.

.....CJI  
(H.L. DATTU)

.....J.  
(N.V. RAMANA)

.....J.  
(ARUN MISHRA)

NEW DELHI,  
AUGUST 27, 2015.

ITEM NO.108

COURT NO.1

SECTION XIA

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

Civil Appeal No(s). 5067/2006

SHIBU &amp; ORS.

Appellant(s)

VERSUS

STATE OF KERALA &amp; ORS.

Respondent(s)

(with office report)

Date : 27/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE N.V. RAMANA  
HON'BLE MR. JUSTICE ARUN MISHRAFor Appellant(s) Mr.M.L.Jishnu, Adv.  
Mr. G. Prakash, Adv.For Respondent(s) Mr. Nishe Rajen Shonker, Adv.  
Anu K.Joy, Adv.Ms. Liz Mathew, Adv.  
Ms. Malavika Prasad, Adv.  
Mr. M. F. Philip, Adv.UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed, in terms of the signed order.

(G.V.Ramana)  
AR-cum-PS(Vinod Kulvi)  
Asstt.Registrar

(Signed order is placed on the file)