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SLP(C)No. 13397 OF 2000
ITEM No.204 & 210

Court No. 7

SECTION IVB

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.13397/2000
(From the judgement and order dated 23/05/2000 in CWP 16605/99
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA & ORS.

Petitioner (s)

VERSUS

JAI BHAGWAN SHARMA & ORS.

Respondent (s)

(With appln(s) for exemption from filing C/c of the impugned
judgment) (With prayer for interim relief)
(For Final Disposal)

With

SLP(C)No.13679/2000, SLP(C)No.13682/2000, SLP(C)No.13766/2000,
SLP(C)No.14046/2000, SLP(C)...CC 846/2001(With permission to file SLP)

Date : 09/02/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Ptr.inSLP-13397 & Mr. Mukul Rohtagi, ASG
rr in SLP-13679, Mr. Mahabir Singh, Adv.
13682,13766,14046/ Mr. S.R. Sharma, Adv.
2000

SLP(C)..CC..846/2001 Mr. Gopal Subramaniam, Sr. Adv.,
Mr. K.R. Nagaraja, Adv.

For Respondent in Mr. P.P. Rao, Sr. Adv.
SLP(C) No.13397/2000 & Mr. K.R. Nagaraja, Adv.
Ptr. in SLP(C)- Mr. A.P. Jain, Adv.
13679,13682,13766,14046/
2000

Ms. Laxmi Arvind, Adv.

Ms. K. Sarada Devi, Adv.

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

.....L.....I.....J

.SP2

Permission to file SLP is granted in
SLP(C)..CC..846/2001.
Delay condoned.
Leave granted.
Appeals are allowed in terms of the signed order.

.SP1

(Meenu Sethi)
Court Master

(R.K. Kumar)
Court Master

Signed order is placed on the file

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1197 OF 2001@@
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State of Haryana & Ors. ...Appellants

Versus

Jai Bhagwan Sharma & Ors. ...Respondents

With

C.A. No.1198 (@ SLP(C) No. 13679/2000)
C.A. No.1199 (@ SLP(C) No. 13682/2000)
C.A. No.1200 (@ SLP(C) No. 13766/2000)
C.A. No.1201 (@ SLP(C) No. 14046/2000)
C.A. No.1202 (@ SLP(C) No..1202/2001(CC...846/2001))

O R D E R

.....L.....I.....J
.SP2

Leave granted.

1055 posts of Patwaris which were to become available by 31.12.1998 were sought to be filled up by inviting applications through an advertisement made on 7.9.1997 for which written tests were held on 29.11.1998 and results were announced on 10.3.1999, following which the interviews were conducted from 8 to 20.4.1999 and the Selection list was also made. The Government by an order made on 2.4.1999 banned making of new appointments. However, by order made on 3.5.1999 certain exemptions in respect of the ban towards appointments were indicated. Thereafter, on 22.5.1999 the result of the selection process was announced. With the change of Government the ban order was lifted on 7.1.2000 which was re-introduced on 16.3.2000 making certain concessions to which we will

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advert to later. Writ petitions were filed by the selected persons who did not hear from the Government, in spite of selection process having been completed. The High Court proceeded on the assumption that abolition of the posts is valid but considered the question as to what relief should be granted to the writ petitioners. The High Court held that mere selection does not give the selected person any right of appointment but thereafter went at a tangent to consider the question whether the selection process was scuttled and what should be the step that should be taken to mitigate the high expenditure that shall be involved in the process of training the selected persons and appointing them.

The matter that should have been examined by the High Court is as to the scope of the orders of the Government banning or fresh appointments or abolishing post and would apply to the petitioners or not.

Without examining the scope or effect of those orders, no relief could have been granted to the petitioners before it. It is brought to our notice that in the order made on 16.3.2000 there are two features which made it clear that the categories of vacancies for which interviews/tests have been held by the HPSC/HSSC/Deptts.,

the ban will not be applicable and the abolition of posts

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would be only in respect of those which are lying vacant for more than two years as on 29.2.2000. But in the case of the Writ petitioners before the High Court the posts would become available only by 31.12.1998 which is a date arriving long after the cut off date stated in the course of the order of the Government.

However, learned Additional Solicitor General submitted that even so the Government can at any stage could declare its policy as to whether to continue the posts or abolish the same and in such an event no relief could be granted to the appellants. Since such step has not been taken by the Government, we shall not proceed to examine this hypothetical question. If and when such an order is passed, we are sure that the High Court or any Forum in which it is brought up will examine this aspect of the matter.

In the result, the order made by the High Court shall stand set aside and the matters shall stand restored to their original numbers in the High Court for fresh consideration in accordance with law including the factors we have noticed in the course of this order. The parties are at liberty to urge all contentions that are available to them in law and fact before the High Court.

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Pending disposal of the matters by the High Court Status-quo shall be maintained in regard to filling up of the posts.

Considering the nature of the matters and the large number of posts that are lying vacant and the inconvenience that may be caused in not filling up the posts, it would be appropriate for the High Court to dispose of the matters are expeditiously as possible. The appeals are allowed accordingly.

.SP1

.....J
(S. RAJENDRA BABU)

.....J
(K.G. BALAKRISHNAN)

New Delhi,
February 9, 2001.