

ITEM NO.101 Court 6 (Video Conferencing)

SECTION XVI

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). 8255-8257/2009

LT.GOVERNER AND OTHERS

Appellant(s)

VERSUS

SHAJAN T.OOMAN AND OTHERS &amp; ORS.

Respondent(s)

WITH

C.A. No. 7971/2011 (XVI)

C.A. No. 7969/2011 (XVI)

( FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 10303/2020

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 13947/2020

C.A. No. 7970/2011 (XVI)

Date : 08-02-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE M.M. SUNDRESH

For Appellant(s) Mr. R. Balasubramanian, Sr. Adv.  
Mr. Ankur S. Kulkarni, AOR  
Mr. Samir Ali Khan, Adv.  
Mr. Susheel Joseph Cyriac, Adv.  
Ms. Uditha Chakravarthy, Adv.

For Respondent(s) Mr. Vijay Hansaria, Sr. Adv.  
Mr. Gaurav Jain, Adv.  
Ms. Abha Jain, AOR  
  
Ms. Sree Priya, Adv.  
Mrs. Mona K. Rajvanshi, AOR  
  
Mr. Rauf Rahim, AOR  
Mr. Ali Asghar Rahim, Adv.

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

An adjournment letter has been circulated by learned  
counsel for the appellant once again on the ground that

there has been a change of panel.

Learned counsel for the respondent points out that the short issue before us is whether the respondent is an employee of the Jila Parishad or PWD Department. He was posted with the PWD Department but his case is that he is an employee of the Jila Parishad.

It is pointed out to us that at the stage when the Special Leave Petitions were entertained on 20.04.2009, the portion of the impugned order was stayed subject to the condition that the *status quo* as on that date with regard to posting of the first respondent was to be maintained. Subsequently, the controversy on the interim aspect has been heard and decided vide the order dated 05.08.2016. The order dated 20.04.2009 was modified and a direction was issued that the respondent No.1 be posted to an equivalent post in the administration and his condition of service and pay scale shall be protected. This was done without prejudice to the rights and contentions of respondent No.1 in the pending litigation.

Learned counsel for respondent No.1 submits that thus, the respondent No.1 has been working in the PWD Department and is on the anvil of demitting office at the end of December of this year. The suggestion thus, is that instead of once again arguing the matter out, it may be more appropriate if the respondent No.1 is thus, permitted to retire at the end of December from

the PWD Department subject to the condition that his retiral benefits are protected and granted by the PWD Department for the entire length of service. He further submits that insofar as the only criminal case pending against him was concerned as on 05.08.2016 he has been acquitted of the same. However, some departmental proceedings are still pending.

In the alternative he makes a suggestion that if the petitioners do not want respondent No.1 to continue in service, he is willing to take voluntary retirement forthwith.

We call upon learned counsel for the appellant to take instructions in respect of the aforesaid keeping in mind the reasonable stand taken by the respondent No.1

List as part heard on 09.03.2022.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)