

ITEM NO.54

COURT NO.10

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

I.A. Nos. 4-6 In  
Civil Appeal Nos. 8255-8257/2009

LT.GOVERNER &amp; ORS.

Appellant(s)

VERSUS

SHAJAN T.OOMAN &amp; ORS.

Respondent(s)

(For directions and office report)

Date : 05/08/2016 These applications were called on  
for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Appellant(s) Mr. Mukul Rohatgi, A.G.  
Mr. Balasubramanian, Adv.  
Mr. K.V. Jagdishvaran, Adv.  
Ms. G. Indira, Adv.

For Respondent(s) Mr. Chanchal Kumar Ganguli, Adv.  
rrs. 3 & 4 Mr. Auchinto Banerjee, Adv.  
Ms. Narmada, Adv.

rr.1: Mr. Rakesh Dwivedi, Sr. Adv.  
Mr. Gaurav Jain, Adv.  
Ms. Abha Jain, Adv.  
Mr. Jaivir Singh, Adv.  
Mr. N.K. Jain, Adv.

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

Heard learned counsel for the parties.

Respondent No. 1-Shajan T. Ooman was last  
working as Executive Engineer, Zila Parishad, South  
Andaman. However, at the moment, the said post is  
occupied by another person and respondent No. 1 is

not in charge of any post.

The learned Attorney General pointed out that though respondent No. 1 is discharged from two criminal cases, one criminal case under the Prevention of Corruption Act is pending against him. In this regard, the learned Attorney General referred to letter dated 07.12.2015 by the C.B.I. requesting the Secretary (Law), Andaman & Nicobar Administration to post respondent No. 1 to non sensitive post pending anti corruption proceedings being investigated by the C.B.I. It was, therefore, submitted on behalf of the Administration that the respondent be posted to another post in the Administration.

The other equivalent post in the Zila Parishad North, Andaman is occupied by another person. The respondent cannot therefore be posted there. It is possible, however, that the said respondent be posted on equivalent post in the Andaman Administration.

Shri Rakesh Dwivedi, learned senior counsel appearing on behalf of the said respondent submits that the respondent has been absorbed in the Zila Parishad long ago and there is no challenge to the

said order of absorption. Therefore, it would not be proper to post the respondent in the Administration. We, however, in the circumstances of the case, feel that it would be proper to post respondent No. 1 to a post in the Andaman Administration, particularly, since there is no post available in either of the Zila Parishads. Undoubtedly, the respondent's right to contest and assert that he belongs to the Zila Parishad cadre must be preserved.

In the circumstances, in modification of order dated 20.04.2009, by which this Court ordered status quo as to his posting, we direct that respondent No. 1 be posted to any equivalent post in the Administration and his condition of service and pay-scales shall be protected.

This posting shall be without prejudice to the rights and contentions of respondent No. 1 in the pending litigation.

I.A. Nos. 4-6 are disposed of.

List the appeal in the month of January, 2017.

[ Charanjeet Kaur ]  
A.R.-cum-P.S.

[ Indu Pokhriyal ]  
Court Master