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SLP(C)No. 13651-13652 OF 1999

ITEM No.6-7 Court No. 4 SECTION XI
A/N MATTER

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.13651-13652/1999
(From the judgement and order dated 27/05/1999 in CMWP 40958,961/98
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

BHOODEV SINGH & ORS Petitioner (s)

VERSUS

CHAIRMAN U.P. STATE ELECTRICITY BD.& ORS Respondent (s)

(With appln.for filing the the amended memo of parties)
(With prayer for interim relief)
(With Appln(s). for c/delay in filing SLP)
(With appln.for impleading party)
(For Final Disposal)
With

SLP(C)No.15349/1999,SLP(C)No.16833-16834/2000

Date : 14/03/2001 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE G.B. PATTANAIK
HON'BLE MR. JUSTICE U.C. BANERJEE
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s)	Mr. P.N.Misra,Sr.Adv. Mr. Yatish Mohan,Adv.for
(In SLP 1544/2000)	Mr. Vishwajit Singh,Adv.
(In SLP 4905/2000)	Mr. K.L. Janjani,Adv.
	Mr. Rakesh Dwivedi,Sr.Adv. Mr. Pravir Choudhary,Adv. Mr. Varinder Kumar,Adv. Mr. Sudhir Kulshreshtha,Adv. Mr. Vijay Kumar,Adv. Mr. Praveen Jain,Adv. Mr. Mohan Pandey,Adv. Mr. S.K.Dhingra,Adv. M/s.B.B.Sinha,R.C.Verma,M.P.Shorawala,Advs for M/s Dhillon & katiyar Co.
(In SLP 7214,10844/00)	Mr.Rajesh Tyagi,Dr.Aparana Bhardwaj,Advs.
For Respondent (s)	M/s. R.C.Verma,Vivek Vishnoi,K.Mishra and Ms. Kiran Kapoor,Adv. Mr. Pradeep Misra,Adv.
	M/s. R.B.Misra,K.Misra and Ms.S.Sharma,Advs.
	M/s. Raj Kr.Gupta,M.K.Singh,Jai Mangal Wadi and Mr. A.N.Bardiyar,Advs.

M/s. Pankaj Kumar Singh,Bimal Roy Jad,Advs.

For U.O.I
Ms.Vibha Makhija,Mr.Ajay Sharma,C.R.Krishna
for Mr. B.V.Balram Das,Adv.

Mr. S.P.Jha,Adv.

(In SLP(C)11352/2000)
Mr. Amitesh Lal,Adv.for
M/s.Jain Hansaria & Co.

UPON hearing counsel the Court made the following

ORDER

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Delay condoned.

Application for filing the amended Memo of Parties stands rejected.

Application for impleading party stands rejected.

Leave granted.

The appeals are remitted back to the High Court for re-disposal.

SLP(C)Nos.10844,7214/2000: The SLPs. are dismissed.@@
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(Y.P.Dhamija) (Suneet Bala Sharma)@@
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COURT MASTER COURT MASTER

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1838-1853/2001@@
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(arising out of SLP(C)Nos.13651-13652,15349/1999,
16833-16834/2000,10720,15164,19613/1999,1544,4904,
4905,8837,11352,17148-171449 & 3374/2000)

Bhoodev Singh & Ors. ..Appellants

Vs.

Chairman, U.P.S.E.Bd. & Ors. ..Respondents

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Delay condoned.

Application for filing the amended Memo of Parties stands rejected.

Application for impleading party stands rejected.

Leave granted.

In this bunch of cases, the question for consideration is whether the view taken by the Full Bench of Allahabad High Court is correct or not. In fact, the aforesaid decision of the Full Bench has been affirmed by a Bench of 2 learned Judges of this Court in the case of U.P. Rajya Vidyut@@
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Parishad Apprentice Welfare Association and Anr. Vs. State@@
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of U.P. & Ors. - JT 2000 (6) SC 227. These cases deal with@@
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the question of appointment to the different posts in different departments governed by different set of rules and/or administrative instructions. When the matter had been

placed before a Bench of 2 learned Judges of this Court, the Bench thought that there is some conflict between the law laid down by this Court, in the aforesaid judgment JT 2000 (6) SCC 227 and the decision of this Court rendered in Tamil Nadu@@
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Electricity Board Vs. P. Arul & Ors. (C.A. No.@@
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5285-5328/1996) disposed of on 3rd October, 1996. All these disputes stem from the 3-Judge Bench decision of this Court in the case of U.P. State Road Transport Corporation and Anr.@@
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Vs. U.P.Parivahan Nigam Shishukhs Berozgar Sangh & Ors.@@
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reported in (1995) 2 SCC 1. There has been an elaborate discussion on different provisions of the Apprentices Act, 1961, and the object behind those provisions, and finally in paragraph 12 of the said judgment, the Court has culled out the relevant criteria, which should be borne in mind while dealing with the claim of trained apprentices to get any employment after successful completion of their training. In paragraph 13 of the said judgment, the Court has indicated as to what would be the mode for consideration in the cases in hand, and it is in that context the Court said that such apprentices would not be required to appear in the written examination. The aforesaid statement made in paragraph 13 cannot be of universal application irrespective of the relevant provisions of the rules/regulations/executive instructions dealing with the matter of appointment to different posts, and therefore the Full Bench of the Allahabad

High Court was justified in its conclusion with regard to the requirement of any written test. In other words, if any particular service rule/regulation, the process of selection indicates that there would be a written examination and viva-voce interview, an apprentice trainee would not be entitled to say that he is not required to take any of those tests. Undoubtedly, the trainee would get an advantage over a fresh direct recruit in the matter of employment, as has been held by this Court in the U.P. State Road Transport Corporation case. The judgment of this Court approving the aforesaid Full Bench decision of the Allahabad High Court, which has been reported in JT 2000 (6) SC 227, therefore does not require any re-consideration. At this stage, we may also notice, yet another judgment in Tamil Nadu Electricity Board Vs. P. Arul wherein certain observations have been made, which may indicate that the apprentices trainee are not required to sit in the written test, but only in a selection where viva-voce test is provided. The aforesaid statement in Arul case has been too broadly stated and cannot be held to a law laid down in cases of all appointments to different cadre governed by different sets of recruitment rules or regulations framed for the purpose.

It was brought to our notice while Mr. Dwivedi was

arguing the first matter that the appointment to the post of Junior Engineer under the U.P. State Electricity Board is governed by a set of regulations framed under section 79 (c) of the Electricity Supply Act, 1948 called the Uttar Pradesh State Electricity Board Subordiate Electrical and Mechanical engineering Service Regulations, 1972. Under the said regullations, recruitment to the post of Junior Engineer is made under regulation 5, and whereas 5(a) deals with selection grade, 5(b) deals with ordinary grade and when recruitment is made to the Junior Engineer in the ordinary grade under regulation 5(b) it could be either made by direct recruitment from Apprentice Junior Engineers selected in accordance with the procedure laid down in part 5 of the Regulations or by promotion in accordance with the procedure laid down in regulations 17 and 18. No further provision could be pointed out to indicate that even a direct recruitment from the outside could be made within the ambit under regulation 5(b)(1) and it has to be made only from Apprentice Junior Engineers, who have already been selected in accordance with the procedure laid down in part 5. Part 5 also deals with the procedure of selection of Apprentice Junior Engineers in Regulation 13, whereas regulations 16 and 17 deals with promotion. We fail to understand how an advertisement could be issued for filling up of the post of the Junior Engineer

under the State Electricity Board directly from open market, which is not contemplated under regulation 5(b)(1). In so far as recruitment to different other posts are concerned, the High Court has not applied its mind to different provisions dealing with the matter of recruitment to different posts, and therefore in fitness of things, we think it appropriate to remit all the matters to the High Court where the High Court would go into the relevant provisions as well as the relevant advertisement for filling up of different posts and then decide the question as to whether in a given case the requirement of written examination is, provided in any regulation so that even Apprentice could be compelled to appear in the same or there is no such provision in which case apprentices may not be required to undertake the said examination, though they will have to undergo the process of selection otherwise. Without applying mind to the specific provision of the recruitment to different posts, the aforesaid problem cannot be solved. It is in these circumstances, we remit all the matters to the High Court for being re-considered in the light of the observations made by us. Since these matters reuire urgent consideration by the High Court, we request the learned Chief Justice may get these matters heard at an early date preferably within 3 months from today.

SLP(C) No. 10844/2000: This SLP is directed against@@
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the judgment of the CAT dated 2nd February, 2000 in OS 384/1999 and O.A. 390/1999. In view of the judgment of this Court in Chandra Kumar's case, the petitioner should have moved the Delhi High Court against the same. We therefore decline to entertain this petition. It is accordingly dismissed. However, it would be open for the petitioner to move the High Court of Delhi.

SLP(C) No.7214/2000: Heard.@@
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The Special Leave Petition is dismissed.

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........................J.
(G.B. PATTANAIK)

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(U.C. BANERJEE)

New Delhi,
March 14, 2001

.....................J.
(B.N. AGRAWAL)