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W.P(C)No. 389 OF 1999
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ITEM No.104 Court No.8 SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (C) NO.389 OF 1999@@
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P. Parmeshwaran & Ors. Petitioner (s)

VERSUS

Union of India & Ors. Respondent (s)
(With appln. for stay and with office report)

(With I.A. No.4 - Appln. under Order 47 Rules 1 and 6 of the
Supreme Court Rules seeking leave to urge
additional facts and grounds)

Date : 17/12/2002 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner(s) Mr. V.R. Reddy, Sr.Adv.
Mr. Ranjit Kumar, Sr.Adv.
Mrs. Anil Katiyar, Adv.
Ms. Sushma Suri, Adv.
Ms. E.R. Sumathy, Adv.
Mr. A.P. Jain, Adv.
Mr. K.R. Nagaraja, Adv.

For Respondent (s) Mr. S. Borthakur, Adv.
Mr. Sunil Kumar Jain, Adv.

Mr. Dhruv Mehta, Adv.
for M/s. K.L. Mehta & Co., Advs.

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

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Mr. V.R. Reddy, learned senior counsel made his
submissions from 11.40 AM to 2.10 PM.
The writ petition is disposed of in terms of the
signed order. No costs.

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(Neena Verma)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.389 OF 1999@@
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P. Parmeshwaran & Ors. Petitioners

Versus

Union of India & Ors. Respondents

O R D E R@@
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Heard learned counsel for the parties.

In this writ petition, the petitioners have sought for quashing the Office Memorandum No.A.60011/49/99/ADMN.I/LA dated 23.08.1999 apprehending that they are likely to be transferred to places outside Delhi and to any part of India, their service conditions are likely to be affected and that even the nature of duties may be changed from professional to administrative. The respondents have filed detailed counter affidavit resisting the contentions raised in the writ petition. A rejoinder has been filed. Thereafter, an additional affidavit has also been filed by the respondents.

It is indicated in the order dated 23.01.2002 of this Court that the learned Additional Solicitor General and learned senior advocate appearing in the matter needed some more time to explore the feasibility of settlement.

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During the course of hearing, we are informed that no particular or individual order is passed on the basis of the impugned office memorandum as against any one of the petitioners herein. It is pointed out by learned senior counsel for the petitioners that in paragraph-3 and paragraph 6(g) of the counter affidavit, the respondents have clarified certain position to remove the apprehension in the minds of the petitioners.

Paragraph -3 and 6(g) of the counter affidavit reads thus :-

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"Para-3: In reply to the contents of para-3, it is submitted that the O.M. is not against the provisions contained in the Recruitment Rules. The O.M.

prescribed duties attached to the post. It does not seek to formalise their induction to any other cadre. The applicants are already liable to be transferred to any part of India. The O.M. also states that they may be required to serve other equivalent posts in this Department in public interest. The O.M. does not seek to change their seniority etc., in their cadre. There is no question of posting them to any other cadre as stated by the applicants.

Para-6(g) The O.M. in no way seeks to induct the Government Advocates into any other cadre or ex-cadre post. The said O.M. reiterates the duties assigned to them and the same has been issued with a view to streamline the work

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of Central Agency Section so that its efficiency is improved and the Government interests are protected."

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In the additional affidavit filed by the respondents in paragraph-2 it is stated thus :-

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"2. It is respectfully submitted that the object behind issuing the office memorandum which is impugned in the writ petition was not to transfer Government Advocates in a routine way or without any cause but to exercise that power in exceptional cases where it becomes absolutely necessary in public interest."

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Further, paragraph 3 of the same affidavit reads:-

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"2. The competent authority has examined the matter and a

decision has been taken that none of the petitioners will be transferred without the concurrence or any specific recommendations of the Attorney General for India."

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.SP2

In the light of what is stated above, we think it is unnecessary to go into the merits of various contentions raised in the writ petition as, in our opinion, it will be premature to do so in the absence of any specific order passed against any one of the petitioners herein. Looking to the averments made in the counter affidavit and additional affidavit filed, as extracted above, we are inclined to think that the petitioners cannot have any ...4/-

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grievances as on today in the absence of any orders passed against them. In this view, the learned senior counsel for the petitioners and the learned Additional Solicitor General agree that it is unnecessary to go into the contentions raised in this writ petition. It is open to the petitioners, if an occasion arises, in future, to raise all the contentions that are available to them. The writ petition is, accordingly, disposed of. No costs.

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.....J.
(DORAISWAMY RAJU)

.....J.
(SHIVARAJ V. PATIL)

New Delhi,
December 17, 2002.