

i2  
SLP(C)No. 14850 OF 2000

ITEM No.40

Court No. 4

SECTION XI  
A/N MATTER

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.14850/2000

(From the judgement and order dated 18/05/2000 in WP 686/2000  
of The HIGH COURT OF U.P AT LUCKNOW)

SURESH CHANDRA

Petitioner (s)

VERSUS

UNION OF INDIA & ANR.

Respondent (s)

(With prayer for interim relief)  
( With Appln(s). for permission to file rejoinder)  
With

SLP(C)No.14853/2000

Date : 30/07/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK  
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. P.N. Mishra,Sr.Adv.  
Mr. Gaurav Jain,Adv.  
Ms. Abha Jain,Adv.

For Respondent (s) Mr. Mukul Rohtagi,ASG  
Mr. Ajay Sharma,Adv.  
Mr. B.V. Balaram Das,Adv.  
Ms. V.B.Gagnani,Adv.

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

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

Leave granted.  
The appeals are allowed.

.SP1

(Y.P.Dhamija) (D.D. Jindal) @@  
AA  
COURT MASTER Asstt. Registrar

Signed order is placed on the file.

.PA

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO...../2001@@  
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE  
(arising out of SLP(C) No.14850/2000)

Suresh Chandra .....Appellant

Vs

U.O.I. & Anr. ....Respondents

WITH C.A. No...../2001 @ SLP(C) 14853/2000@@  
EEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEEE

O R D E R@@  
EEEEEEEEEE

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

Leave granted.

The short question that arises for consideration in these two appeals is whether the employer can be said to have followed the guidelines issued by the Government of India on 14th September, 1992, which guideline was issued as a sequel to the judgment of this Court in Janaki Raman's case ( 1991 (4) SCC 109). The appellants are continuing in the post of Executive Engineer, and certain criminal cases are pending against them even since 1991. Because of the pendency of criminal proceedings, the departmental promotion committee took recourse to the sealed cover procedure, and the suitability of the appellants for promotion has been considered by the departmental promotion committee. The grievance of the appellants is that even though the criminal cases are still pending, and an application for discharge filed in 1995 has not been disposed of as yet, yet the appropriate authority has, mechanically in the terms of the language of the Circular on the basis of so-called advice from the CBI, not granted the ad-hoc promotion, which the

appellants would be otherwise entitled to on account of the suitability being adjudged by the departmental promotion committee. The stand of the Union Government, as stated to us by the learned A.S.G. is, that in view of the nature of charges against the appellants, which is subject matter of the pending criminal proceedings, the Government thought it fit to take the advice of the CBI as to whether ad-hoc promotion can be given to the appellants in terms of Circular dated 14th September, 1992, and it is on the advice of the CBI it was thought fit that no promotion should be given in the public interest, and therefore promotion has not been given. On a perusal of the nature of charges levelled against the appellants, and on examining the Government Circular dated 14th September, 1992 we really fail to understand what public interest would be involved or subserved by not making ad-hoc promotion to the appellants, who are continuing in service, not being suspended, and who are stated to us have been selected by the departmental promotion committee, though the same is in the sealed cover. In our view, on the facts and circumstances of the case, the appropriate authority has failed to exercise his jurisdiction/discretion vested under the Government Circular dated 14th September, 1992, and the

Circular in question has not been followed in its true spirit. We therefore set aside the impugned judgment of the High Court, and direct that the appellants' case be duly

- 3 -

considered, and if they have been found eligible for promotion, ad-hoc promotion be given subject to the terms and conditions indicated in the Circular itself. Needless to mention the criminal court would do well in disposing of the application filed by the accused for discharge at an early date.

The appeals are allowed accordingly.

.SP1

.....J.  
(G.B. PATTANAİK)

New Delhi,  
July 30, 2001

.....J.  
(RUMA PAL)