

ITEM NO.16

COURT NO.7

SECTION XII

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

Petitions for Special Leave to Appeal (C) Nos. 20214-20216/2011
(Arising from the judgment and final order dated 8th November,
2010 passed by the High Court of Judicature at Madras in W.P.
Nos. 26525 of 2009 and W.P. Nos. 221 and 7165 of 2010)

T. VALSAN AND ORS.

Petitioner(s)

VERSUS

K.KANAGARAJ AND ORS. ETC.ETC.

Respondent(s)

(With prayer for interim relief and appln. for permission to
file addl. documents)

Date : 30-01-2018 These petitions were called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Raghavendra S. Srivatsa, AOR
Mr. Venkita Subramoniam T.R., Adv.
Mr. Rahat Bansal, Adv.
Mr. Amit A. Pai, Adv.

For Respondent(s) Mr. S. Guru Krishna Kumar, Sr. Adv.
Mr. S. R. Setia, AOR

Mr. R. Venkataramani, Sr. Adv.
Mr. V. G. Pragasam, AOR
Mr. Prabu Ramasubramanian, Adv.
Mr. S. Manuraj, Adv.
Mr. Yashraj Singh Bundela, Adv.
Mr. Praveen Vignesh, Adv.

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

The question that arises in these special
leave petitions is whether for promotion to the post
of Assistant Engineer in the Electrical Engineering,
three years' experience as a Junior Engineer in the
Grade must be reckoned from the date of acquisition

of the Degree in Electrical Engineering or the length of service in the Grade of Junior Engineer. The Rule in question is Rule '4' read with paragraph 11 of the Schedule to the Government of Pondicherry, Electrical Department, Group B (Technical) posts of Assistant Engineer (Electrical) Recruitment Rules, 1979, as amended by Notification dated 07.10.1982.

Shri R. Venkataramani, learned senior counsel appearing for the Union Territory of Puducherry relied on a judgment of this Court in the case of D. Stephen Joseph vs. Union of India & Ors., (1997) 4 SCC 753, to contend that this very Rule has been construed by this Court and this Court has come to the conclusion that the length of service as a Junior Engineer is required to be considered irrespective of the date of acquisition of the Degree.

Shri Venkataramani, learned senior counsel, therefore, contended that the matter is no more *res integra*.

Though the judgment in Stephen's case (*supra*) does not undertake the exercise of construing the Rule directly, it affirms the judgment of the Central Administrative Tribunal, Madras Bench which has taken the view that the experience of three years is not to be reckoned from the date of acquisition of the degree.

Having considered the arguments of learned counsel for the petitioners, we find that the judgment in Stephen's case (supra) is not in accordance with the various decisions of this Court construing almost identical Rules, including, the cases of Shailendra Dania & Ors. vs. S.P. Dubey & Ors., (2007) 5 SCC 535 and K.K. Dixit & Ors. vs. Rajasthan Housing Board and Anr, (2015) 1 SCC 474. These judgments have clearly held that the period of experience must be reckoned from the date of acquisition of the degree. The Ratio of these cases commends itself to us and we are inclined to follow the same.

However, since the judgment in the case of Stephen's case (supra) is rendered by a Bench of two Judges, it is necessary for us to refer this issue for decision to a larger Bench comprising three Judges.

We accordingly, direct the Registry to place the papers before Hon'ble the Chief Justice of India for appropriate orders in this regard.

Ordered accordingly.

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

[Indu Kumari Pokhriyal]
Asstt. Registrar