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C.A.No. 6272 OF 1999  
ITEM No.110

COURT NO.10

SECTION XIA

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

CIVIL APPEAL NO. 6272 OF 1999@@  
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THOMAS OUSEPH ...APPELLANT

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

WITH C.A.NOS.6273 and 6274 of 1999-(With office report)

Date : 14/01/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. M.P. Vinod, Adv.

For Respondent (s)  
UOI Mr. N.N. Goswami, Sr.Adv.  
Ms. Rekha Pandey, Adv.  
Mr. S.N. Terdol, Adv.

Charman, Rubber Bd. Mr. Joseph Kodianthara, Adv.  
Mr. Roy Abraham, Adv.  
Mr. Dileep Pillai, Adv.  
Mr. A.K. Jain, Adv.  
Mr. Himinder Lal, Adv.  
  
Mr. T.R. Mohanakumar, respondent-in-person

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

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

Heard learned counsel for the parties for half an hour.  
I.A.No.6 is dismissed.  
The appeals are disposed of in terms of the signed order. No costs.

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Sarita (Shelly Sengupta)@@  
AA  
Court Master@@  
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(Signed order is placed on the file)

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.PL56

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6272 OF 1999@@  
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THOMAS OUSEPH

...APPELLANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

WITH C.A.NOS. 6273 & 6274 OF 1999

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J  
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I.A.No.6 is dismissed.

Heard learned counsel for the parties and Shri T.R. Mohanakumar, respondent No.3 in C.A.No. 6272/99 and respondent No.1 in C.A.Nos.6273 & 6274 of 1999 in person.

The appellant in C.A.No.6272/99 - Shri Thomas Ouseph, was appointed as the Secretary to the Rubber Board, Kottayam on the basis of selection list of the candidates prepared pursuant to the advertisement published by the Rubber Board for the post of Secretary of the said Board. In the selection list, said Shri Thomas Ouseph was placed at Serial No.1 and Shri T.R. Mohanakumar was placed at serial No.2. Pursuant to the selection list, Shri Thomas Ouseph was appointed as ..2/-

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.2.

Secretary to the Rubber Board. Shri T.R. Mohanakumar challenged his appointment by way of filing a writ petition before the High Court of Kerala contending that the said Shri Thomas Ouseph did not have the requisite qualification and he was age-barred also. The learned Single Judge upheld his contention that Shri Thomas Ouseph was over-aged for appointment, although the Board, Union of India and Shri Thomas Ouseph contended that the relaxation of age was permissible under the relevant Rules. The learned Single Judge rejected their contention on the ground that the advertisement inviting applications did not mention that age relaxation was available in regard to suitable candidates. The order of the learned Single Judge was challenged before the Division Bench of the same High Court. The Division Bench affirmed the order of the learned Single Judge. Hence, these three appeals are before us challenging the said order passed by the Division Bench.

During the course of hearing it is brought to our notice that Shri Thomas Ouseph has retired after reaching superannuation and the post of Secretary to the Rubber Board is not filled up.

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.3.

Shri T.R. Mohanakumar, the respondent in-person submitted that the direction given by the learned Single Judge, as affirmed by the Division Bench, need not be disturbed and consequently, the direction be maintained so as to give appointment to him as the Secretary of the Rubber Board. Learned counsel for the appellant contended that disciplinary proceedings were initiated against Shri T.R. Mohanakumar for certain misconduct and based on these disciplinary proceedings he was dismissed from service. However, on his appeal, penalty was altered. Not being satisfied with the same, Shri T.R. Mohanakumar filed Writ Petition bearing O.P. No.26416/2002 which is pending disposal before the High Court. Learned counsel for the appellant submitted that this being the position when Shri T.R. Mohanakumar has suffered punishment for the misconduct, he cannot be appointed pursuant to the direction given by the High Court. Mr. N.N. Goswami, learned Senior counsel appearing on behalf of the Union of India also submitted that the post of Secretary is lying vacant and without filling up that post it has become difficult for the Rubber Board to function.

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.4.

Having regard to what is stated above, in our view, it is just and proper to dispose of these appeals in the following terms : Shri T.R. Mohanakumar shall be considered for appointment as Secretary to the Rubber Board pursuant to the direction given by the High Court, but subject to the result of the O.P.No.26416/2002 pending before the High Court of Kerala. The High Court of Kerala is requested to dispose of the said writ petition within a period of three months from the date of the receipt of the copy of this Order.

We make it clear that the retiral benefits of Shri Thomas Ouseph, if any, shall remain unaffected as he has superannuated and if he is entitled to all such benefits.

The appeals are disposed of in the above terms. No costs.

.SP1

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

New Delhi,  
January 14, 2003.

.....J.  
(ARIJIT PASAYAT)