

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 3603 of 2011

DR. T. P. SARASA

Appellant(s)

VERSUS

STATE OF KERALA & ORS.

Respondent(s)

O R D E R

The challenge in the present appeal is to the order dated 18.02.2008 passed by the High Court of Kerala at Ernakulam in W.A. No. 408 of 2008.

The grievance of the appellant is that he has obtained the Post-Graduate Degree within five years of the commencement of the Kerala Health Services (Ayurveda) Collegiate Teaching Services Special Rules notified on 20.01.1998. Therefore, he alone being a qualified candidate is entitled to be promoted to the post of 'Reader' rather than the private respondents. The relevant provision in the said Rules is Note 3, which reads thus:

"3. Teachers in service who do not possess the P.G. Degree qualification shall be given five years' time to acquire the prescribed qualification. Those who get promoted during this period and do not acquire the prescribed qualification within the period shall be reverted."

The respondents relied upon relaxation notified on 13.05.2003

to obtain the Post-Graduate Degree qualification within another five years in terms of Rule 39 of the Kerala State and Subordinate Service Rules, 1958. Such relaxation reads thus:

“Government has examined the matter in detail. It is hereby ordered that a further period of five years from 20.01.2003 is granted to the teachers of Ayurveda Medical Education Department coming within the purview of Note 3 to Rule 5 of Special Rules issued as per G.O.(P) No.4/98/P & ARD dated 20.1.98 to acquire PG Degree qualification in relaxation of Rules invoking Rule 39 of General Rules KS & SSRs.”

The power of relaxation has been exercised in terms of the statutory rules; therefore, the appellant will not get any preferential right of promotion only for the reason that he has obtained Post-Graduate Degree within the initial period of five years whereas the respondents have obtained Post-Graduate Degree within the extended period.

In view of the aforesaid, we find that there is no merit in the appeal as the respondents are eligible for promotion to the post of ‘Reader’ in terms of the statutory rules.

In view of the above, we do not find any merit in the appeal and the same is, accordingly, dismissed.

Pending application (s), if any, also stand disposed of.

.....J.
[HEMANT GUPTA]

.....J.
[SUDHANSHU DHULIA]

New Delhi;
September 01, 2022.

ITEM NO.106

COURT NO.7

SECTION XI-A

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(s).3603/2011

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Date : 01-09-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Appellant(s) Mr. Roy Abraham, Adv.
 Ms. Reena Roy, Adv.
 Mr. Akhil Abraham, Adv.
 Mr. Audhinder Lal, Adv.
 Mr. Himinder Lal, AOR

For Respondent(s) Mr. Harshad V. Hameed, AOR
 Mr. Dileep Poolakkot, Adv.
 Mrs. Ashly Harshad, Adv.

Dr. M.P. Raju, Adv.
Mr. Pushkar Anand, Adv.
Mr. Ashwani Bhardwaj, AOR
Mr. Sunil Kumar Pandey, Adv.

Mr. Biju P Raman, AOR
Mr. Vishnu Sharma A.S., Adv.

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

The appeal is dismissed in terms of the signed order.

Pending application (s), if any, also stand disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)