

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.5289-5290 OF 2004

CHAIRMAN, RAJYA KRISHI UTPADAN MANDI
PARISHAD, U.P. & ORS.
S

.....APPELLANT

VERSUS

SHAHAJADE
T

.....RESPONDENT

O R D E R

These appeals are directed against orders dated 23.04.2002 and 23.05.2003 passed by the Division Bench of the Allahabad High Court in Civil Miscellaneous Writ Petition No.30319 of 2001 and Civil Miscellaneous Review Petition No.104056 of 2002 whereby the High Court directed the appellants to fix the pay of the respondent in the scale of Rs.2000-3000 with effect from 1.1.1986 with consequential benefits and dismissed the review petition filed by the appellants.

Respondent No.3, who was then holding the post of Secretary Krishi Utpadan Mandi Samiti, Baberu (Banda) filed Writ Petition No. 2742/2000 for issue of a direction to the functionaries of Rajya Krishi Utpadan Mandi Parishad, Uttar Pradesh (for short, 'the Parishad') to fix his pay in the higher scale of pay. The same was disposed of by the Division Bench of the Allahabad High Court with a direction that the concerned

2

authority shall decide his representation.

In compliance of the direction given by the High Court, Director of the Parishad passed detailed order dated 22.5.2001 and rejected the respondent's claim for fixation of his pay in the

scale of Rs.3,000-4,500.

The respondent challenged the aforesaid order in Writ Petition No. 30319/2001, which was allowed by the Division Bench of the High Court in the manner indicated hereinabove. The appellants sought review of order dated 23.04.2002 but could not persuade the High Court to entertain the same.

We have heard Smt. Shobha Dikshit, learned senior counsel appearing for the appellants and Shri S.R. Singh, learned senior counsel appearing for the respondent.

It is not in dispute that the conditions of service of the persons holding the posts of Secretaries are governed by the Uttar Pradesh Agricultural Produce Market Committees (Centralised) Service Regulations, 1984 (for short, 'the Regulations'). Regulation 4 thereof, insofar as it relevant for deciding these appeals reads as under:

"4. Creation of Centralised Service.- With effect from the commencement of these regulations there shall be a centralised services for the Market Committees consisting of the cadres and posts given below :

1. Secretaries-
 - (a) Secretaries, Class-I
 - (b) Secretaries, Class-II
 - (c) Secretaries, Class-III, Grade-I,
 - (d) Secretaries, Class-III, Grade-II,
 - (e) Secretaries, Class-III, Grade-III."

3

A glance at the above reproduced Regulation makes it clear that there are different classes and grades of Secretaries of the Market Committees. The High Court did not strike down classification of the cadre of Secretaries and yet directed the appellants to fix the respondent's pay in the higher scale. This, in our considered view, was legally impermissible.

Learned counsel for the respondent fairly states that without striking down Regulation 4, the High Court could not have ordained fixing of his client's pay in the higher scale.

In view of the above, the appeals are allowed, the impugned orders are set aside and the matter is remitted to the High Court for fresh disposal of the writ petition.

It will be open to the respondent to seek amendment of

the writ petition for the purpose of challenging the vires of Regulation 4 and other related provisions. If such an application is filed, the High Court shall decide the same after giving notice to the appellants.

.....J.
(G.S.SINGHVI)

.....J.
(ASOK KUMAR GANGULY)

NEW DELHI;
MAY 3, 2011.

4

ITEM NO.102(1)

COURT NO.11

SECTION XI

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

Petition(s) for Special Leave to Appeal (Civil) No.(s)18674/2006

(From the judgment and order dated 24.05.2006 in Civil Misc.Writ Petition No.3369 of 2004 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

Ranveer Singh Mahle and othersPetitioners

VERSUS

State of U.P. and othersRespondents

(With office report)

Date: 03/05/2011 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.P.N.Misra, Sr.Adv.
Mr.Shashindra Tripathi, Adv.
Mr.Shovan Misra, Adv.

For Respondent(s) Ms.Shobha Dikshit, Sr.Adv.
Mr. Pradeep Misra, Adv.
Mr.Suraj Singh, Adv.

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

This petition is directed against order dated 24.05.2006 by which the Division Bench of the Allahabad High Court dismissed the writ petition filed by the petitioners for grant of parity in the pay scales with other Secretaries of Uttar Pradesh Krishi

Utpadan Mandi Parishad and for striking down Regulation 4 of the
Uttar Pradesh Agricultural Produce Market Committees (Centralised)

5

Service Regulations, 1984.

After arguing the case for some time, Shri P.N. Misra,
learned senior counsel appearing for the petitioners made a
request that his clients may be permitted to withdraw the special
leave petition with liberty to file fresh writ petition with
better pleadings and particular and by impleading necessary and
proper parties.

Smt. Shobha Dikshit, learned senior counsel appearing
for the respondents says that she does not have any objection.

In view of the above, the special leave petition is
disposed of as withdrawn with liberty in terms of the prayer made.

It is made clear that the writ petition, if any, filed
by the petitioners shall be decided by the High Court without
being influenced by the reasons incorporated in the order impugned
in this petition.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

6

ITEM NO.102

COURT NO.11

SECTION XI

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 NOS.5289-5290 OF 2004

CHAIRMAN, RAJYA KRISHI UTPADAN MANDI
PARISHAD,U.P. & ORS.

.....Appellants

VERSUS

SHAHAJADE

.....Respondent

(With office report)

Date: 03/05/2011 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Ms.Shobha Dikshit, Sr.Adv.

Mr. Pradeep Misra, Adv.
Mr. Suraj Singh, Adv.

For Respondent(s) Mr. S. R. Singh, Sr. Adv.
Mr. S. N. Tripathi, Adv.
Mr. M. P. Shorawala, Adv.

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

The appeals are allowed in terms of the signed order.

(Satish K. Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)

7
8