

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
I.A. NO.4 OF 2016
IN
CIVIL APPEAL NO.3363 OF 2015

DR. SEEMA JAINAPPELLANT

VERSUS

DR. KARUNA NIDHAN UPADHYA & ORS.RESPONDENTS

WITH

I.A. NO.6/2016 IN C.A. NO.3366/2015

I.A. NO.4/2016 IN C.A. NO.3364/2015

O R D E R

By judgment dated 15.7.2016, this Court has dismissed the Civil Appeal No.3361 of 2015 and batch matters. This Court, vide para 56 of the aforesaid judgment, has affirmed the directions of the Division Bench of the High Court in and by which the High Court directed the U.P. Higher Education Service Commission to consider and frame appropriate guidelines for conduct of interview for selection to the post of Principal of Post-Graduate/ Degree Colleges in accordance with law as mandated by Regulation 6(2) of the 1983 Regulations and further take early steps for filling the vacant posts of Principal of Post-Graduate/Degree Colleges in accordance with law.

In these interlocutory applications, the applicants seek clarification/modification of the judgment dated 15.7.2016, that they are not required to refund the difference amount of salary the applicants have drawn as a Principal of the College in comparison to the post of a Reader.

The grievances of the applicants/appellants are that they have been duly selected and have been working as Principals for different spells of time and in compliance of the aforesaid judgment dated 15.7.2016 passed by this Court, they have undergone the process of selection and by virtue of the said judgment, they have now been reverted to the post of Readers.

Mr. Amrendra Sharan, learned Senior Counsel appearing for the applicants/appellants, submits that the applicants/appellants have *bona fide* worked in the capacity of Principals and they have also been paid salary as Principals and in view of the aforesaid judgment of this Court, excess amount (the salaries which were paid to the applicants/appellants in their capacity as Principals) have either been recovered or about to be recovered from some of the applicants/appellants. In this regard, the applicants/appellants have filed these interlocutory applications seeking appropriate directions that the present applicants/appellants are not required to refund the difference amount of salary which they had drawn in the capacity of Principal of the College in comparison to the post of Reader and also in the case of some of other applicants/appellants, not to recover the excess amount of salary.

By this Court's order dated 8.2.2017, notice was issued on these interlocutory applications and liberty was granted to the applicants/appellants to serve notice upon the respondents through Standing Counsel for the

respondents-State. By the said order, this Court also granted stay of recovery until further orders.

Today, when the matter was taken up for hearing, none appears on behalf of the respondents - State of U.P.

In the facts and circumstances of the case, we are of the considered view that the applicants/appellants have duly served as Principal of the college. In the interests of justice, we deem it appropriate to direct the concerned authorities, not to recover the excess amount of salary which the applicants/appellants were paid as the Principals, and in case the excess amount have already been recovered, the same shall be refunded to the applicants/appellants. We also direct the respondents-State to make the said refund to the applicants/appellants within a period of six months from today. We order accordingly.

Since it is not in dispute that the applicants/appellants were duly appointed and worked in different capacity either as Principal or as Reader of the various colleges, we also deem it appropriate that the period during which they worked as Principal may be taken into account for continuity of service and for calculation of the pensionary benefits. We order accordingly.

With the aforesaid directions, these interlocutory applications stand disposed of.

.....J
[S. A. BOBDE]

.....J
[R. BANUMATHI]

New Delhi;
MARCH 01, 2017.

ITEM NO.9

COURT NO.9

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

I.A. No.4/2016 in Civil Appeal No.3363/2015

DR. SEEMA JAIN

Appellant(s)

VERSUS

DR. KARUNA NIDHAN UPADHYA & ORS.

Respondent(s)

(For modification/clarification of order dated 15.07.2016 and office report)

WITH I.A. No.6/2016 in C.A. No.3366/2015

(For directions and Interim Relief and Office Report)

I.A. No.4/2016 in C.A. No.3364/2015

(For directions and Interim Relief and Office Report)

Date : 01/03/2017 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s)

Mr. Amrendra Sharan, Sr. Adv.
Mr. Amit Anand Tiwari, Adv.
Ms. Vishakha, Adv.

Mr. Anil Karnwal, Adv.
Mr. Sanjeev K. Bhardwaj, Adv.
Mr. K. S. Rana, Adv.

Mr. S. Hari Haran, Adv.
Mr. Manoj K. Mishra, Adv.
Mr. Shivpati D. Pandey, Adv.
Mr. Umesh Dubey, Adv.
Mr. Omkar Nath, Adv.

For Respondent(s)

Mr. Ashok Kumar Sharma, Adv.

Mr. Gaurav Agrawal, Adv.

Mr. Sanjay Kumar Visen, Adv.

Mr. M. R. Shamshad, Adv.

Mr. C. D. Singh, Adv.

Ms. Anu Gupta, Adv.

UPON hearing the counsel the Court made the following

O R D E R

These interlocutory applications stand disposed of in terms of the signed order.

(Sanjay Kumar-II)
Court Master

(Indu Pokhriyal)
Court Master

(Signed Order is placed on the file)