

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Civil) Nos.14724-14733/2009

(From the judgement and order dated 11/06/2009 in WP Nos.11792 to 11801 of 2009 of the HIGH COURT OF KARNATAKA AT BANGALORE)

SHIVANAND S.BANAKAR & ORS.ETC.ETC.

Petitioner(s)

VERSUS

STATE OF KARNATAKA & ORS.ETC.

Respondent(s)

(With appln(s) for exemption from filing O.T. and with prayer for interim relief and office report)

Date: 11/02/2010 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Ms. Kiran Suri,Adv.

For Respondent(s) Mr. Sanjay R. Hegde,Adv.
Mr. A. Rohan Singh,Adv.
Mr. Vikrant Yadav,Adv.
Mr. Ramesh S. Jadhav,Adv.

Mr. S.N. Bhat,Adv.

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

These special leave petitions are directed against the order dated 11th June, 2009, passed by the Division Bench of the Karnataka High Court in Writ Petition Nos.11792-11801/2009 and 11932-11942/2009, staying the order dated 3rd April, 2009, passed by the Karnataka Administrative Tribunal. Accordingly, the Government

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Notification dated 23rd March, 2009, will be subject to the result of the Writ Petition (C) No.61/2002 pending before this Court.

The subject matter of challenge before the Karnataka Administrative Tribunal was with regard to the seniority list of the Assistant Executive Engineers prepared pursuant to the amendment effected in the State Act. Admittedly, the said challenge is now the subject matter of the pending writ petition referred to hereinabove.

By the impugned order, the High Court while vacating its interim order, also directed as follows:

"(i) The State Government shall not revert the petitioners pending in the writ petitions before this Court (who are contesting respondents and applicants before the Tribunal) nor affect their standing in the seniority list or promotion or pay etc.;

(ii) It shall be for the State Government to promote those who are benefited by the impugned amendment viz., the writ petitioners herein, who are similarly placed as respondents in the applications; and

(iii) While giving promotions to the writ petitioners or similarly placed persons, such promotion shall not affect the writ petitioners before the Apex Court, viz., the contesting respondents herein and applicants before the Tribunal in any manner."

In these special leave petitions, the petitioners have prayed for parity with those who had been protected by the aforesaid order of the High Court upon claiming to be similarly circumstanced.

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Admittedly, the amendment effected in the State Act has not been stayed by this Court in the pending writ petition, although its vires is being challenged. Accordingly, the respondents have to proceed in accordance with the amended provisions if, and only if, they are held to be ultra vires. In such circumstances, the seniority list prepared subsequent to the amendment should not be interfered with by us at this stage.

Pursuant to the order passed by this Court, whatever relief has been granted to those who were parties in the earlier proceedings, would be confined to them alone. In our view, it would be in the interest of all concerned to have the writ petition, pending before this Court, heard and disposed of at an early date.

Accordingly, without interfering with the order impugned in the present special leave petitions, we direct that Writ Petition (C) No.61/2002, which is pending before this Court since 2002, should be listed for final disposal and be heard and disposed of at an early date.

We are also satisfied that the observations made by the High Court while disposing of the writ petition pending before it, namely, that whatever steps may be taken would be subject to the result of the writ petition pending before this Court, would amply protect the petitioners herein. These special leave petitions are accordingly disposed of with the aforementioned observations.

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The Registry may take note of the same and place the pending writ petition for final disposal at an early date.

(A.S. BISHT)
COURT MASTER

(JUGINDER KAUR)
COURT MASTER