

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5643 OF 2014
(Arising out of SLP(C) No. 29811 of 2008)

RAJASTHAN STATE ROAD TRANSPORT CORP.

Appellant

VERSUS

NAVRATANMAL SHARMA & ANR.

Respondents

O R D E R

Leave granted.

2. The respondent filed a suit for declaration that he is entitled to the enhancement in the selection pay-scale at 9 years, 18 years and 27 years as such the pay-scale is available in the case of stagnation of pay. The trial court, advertent to the facts and the material brought on record, dismissed the suit.

3. On an appeal being preferred by the unsuccessful-plaintiff, the appellate court reversed the judgment of the trial court and decreed the suit on the ground that the Rajasthan State Road Transport Corporation ('Corporation' for short), the appellant herein, had not stipulated any condition in the advertisement which were incorporated in the letter
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of appointment. That apart, certain other aspects were highlighted and the judgment and decree passed by the learned Trial Judge was reversed.

4. Being aggrieved by the aforesaid judgment and decree, the appellant herein preferred Civil Second Appeal No. 240/2008. The High Court concurred with the view expressed by the learned Appellate Judge.

5. We have heard Sh. S.K. Bhattacharya, learned counsel for the appellant and Mr. Ashok Kumar Sharma, learned counsel for the respondents.

6. It is urged by Mr. Bhattacharya that the learned Appellate Judge has misconstrued the whole concept by expressing an opinion that the conditions were to be imposed in the advertisement, for there was no advertisement but an internal office memo. That apart, submits Mr. Bhattacharya, in the letter of appointment which was issued for the post of Legal Assistant, it was specifically mentioned that the old service would not be counted for seniority but the same would be considered for provident fund/gratuity and pension. That apart, it is also engrafted therein that the grant of pay scale relating to period 9, 18 and 27 years, shall be made from the date of taking charge on the post of Legal Assistant. In essence, the contention of the learned counsel for the appellant is that in view of the postulates incorporated in the letter of appointment, the

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learned Appellate Judge should not have made out a third case in favour of the plaintiff-respondent and the High Court without adverting to any of the facts should not have concurred with the judgment and decree passed by the lower appellate court.

7. Learned counsel for the respondent submitted that the judgment and decree passed by the court below has already been executed and the respondent has retired. On a query being made about the quantum, learned counsel for the respondent was not in a position to apprise us. We have also been told by Mr. Bhattacharya that the number of matters are pending before the High Court and if the principle laid by the learned Appellate Judge which has been

concurrent by the High Court is accepted, it would have a tremendous cascading effect.

8. To appreciate the aforesaid submissions raised at the Bar and regard being had to the controversy, we have carefully perused the order passed by the High Court and on scrutiny of the same, we find the reasons recorded by High Court reads as follows:

"The lower appellate court on the basis of evidence and material on record came to a finding that once continuity of service has been accepted by the appellant-Corporation, the benefit of selection scale could not be denied to the plaintiff-respondent. Since after due consideration proper discretion has already been used by the lower appellate court, in the facts and circumstances no

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further interference is called for by this court more so, when no substantial question of law arises. The appeal is dismissed accordingly as having no merits."

9. In our considered opinion, the said reason is absolutely not germane to the case. It was obligatory on the part of the High Court to dwell upon the legal issues which were urged and dealt with the same. Therefore, having no option, we set aside the order passed by the High Court in Civil Second Appeal No.240/2008 and remit the matter for fresh adjudication on merits after taking into consideration all the legal aspects in the matter. We hasten to clarify that we have not expressed any opinion on the merits of the case.

10. In the result, the appeal is allowed. The judgment and order passed by the High Court in Civil Second Appeal No. 240/2008 is set aside and the matter is remanded to the High Court. There shall be no order as to costs.

.....J.

(DIPAK MISRA)

.....J.
(S.A. BOBDE)

NEW DELHI
MAY 07, 2014

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ITEM NO.204 COURT NO.13 SECTION XV

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

Petition(s) for Special Leave to Appeal (Civil) No(s).29811/2008
(From the judgement and order dated 07/08/2008 in SBCSA No.240/2008
of The HIGH COURT OF RAJASTHAN AT JAIPUR)

RAJASTHAN STATE ROAD TRANSPORT CORP. Petitioner(s)

VERSUS

NAVRATANMAL SHARMA & ANR. Respondent(s)
(With prayer for interim relief and office report)
(For final disposal)

WITH SLP(C) NO. 20821 of 2008
(With prayer for interim relief and office report)
(For final disposal)
SLP(C) NO. 22994 of 2008
(With prayer for interim relief and office report)
(For final disposal)

Date: 07/05/2014 These Petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. S.K. Bhattacharya, Adv.

For Respondent(s) Mr. Ashok Kumar Sharma, Adv.
Mr. Sanjay Jha, Adv.
Mr. V. Mudgal, Adv.

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

SLP(C) No. 29811/2008

Leave granted.
Appeal is allowed in terms of the signed order.

SLP(C) No. 20821/2008 & SLP(C) No. 22994/2008

Heard counsel for the parties.
Special leave petitions are dismissed.

(NAVEEN KUMAR)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

(Signed order is placed on the file)