

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7651 OF 2009

UNION OF INDIA & ANR. . . . APPELLANT(S)

VERSUS

AJAY KUMAR D & ANR. . . . RESPONDENT(S)

WITH

CIVIL APPEAL NOS. 813-814 OF 2011

HARMOHINDER PAL SINGH & ANR. ETC. ETC. . . . APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. . . . RESPONDENT(S)

O R D E R

IN CIVIL APPEAL NO. 7651 OF 2009

Heard learned counsel for the parties.

We do not find any ground to interfere with the
impugned order.

The appeal is, accordingly, dismissed.

CIVIL APPEAL NOS. 813-814 OF 2011

Heard learned counsel for the parties.

The issue involved in these appeals is the
interpretation of Rule 12 of the All India Radio Civil

Construction Wing (Group 'A' and Group 'B' Posts)

Recruitment Rules, 1988 which is as follows:

"(ii) Junior Engineers holding Degree in Civil Engineering with 5 years regular service in the grade ; or

(iii) Junior Engineers holding Diploma in Civil Engineering with 8 years regular service in the grade".

Scheme of somewhat similar rules has been the subject matter of consideration in the judgments of this Court viz. N. Suresh Nathan & Anr. Vs. Union of India (1992) Suppl.1 SCC 584; M.B. Joshi Vs. Satish Kumar Pandey & Ors., (1993) Suppl.2 SCC 419; Stephen Joseph Vs. Union of India 1997 (4) SC 753; Shailendra Dania & Ors. Vs. S.P. Dubey & Ors. (2007) 5 SCC 535 and K.K. Dixit & Ors. Vs. Rajasthan Housing Board and Ors. (2015) 1 SCC 474.

In the latest judgment i.e. *K.K. Dixit* Case, it was held that the experience of service for a person holding diploma but acquiring degree while in service is counted post degree. The Tribunal and the High Court have held to the contrary. We are not in agreement with the view taken by the High Court and the Tribunal. Accordingly, we set aside the impugned judgment and hold that the experience of a diploma holder who had acquired degree while in service will be counted only after acquisition of the degree.

The appeals stand disposed of in the above terms. No costs.

We, however, direct that any promotions given so far to the post of Assistant Engineers will not be disturbed nor the pay of any such incumbent be reduced. However, it will be open to the Department to re-cast the seniority for future promotions. We may also observe that while on interpretation of the scheme of the rules, experience of service is to be counted post degree, the Department may consider giving appropriate weightage to the past service by amending the rules for future. This consideration may be done within three months from the date of receipt of a copy of this order.

.....J.
[ADARSH KUMAR GOEL]

NEW DELHI
18TH JANUARY, 2017

.....J.
[UDAY UMESH LALIT]

ITEM NO.107

COURT NO.11

SECTION XIA

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). 7651/2009

UNION OF INDIA & ANR.

Appellant(s)

VERSUS

AJAY KUMAR D & ANR.
(With office report)

Respondent(s)

WITH

C.A. No. 813-814/2011

(With (With (With appln.(s) for permission to appear and argue in person and appln.(s) for directions and appln.(s) for permission to appear and argue in person and Office Report)

Date : 18/01/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) In C.A.7651/09 & Respt. in C.A.813-14/2011	Ms. Jyotika Kalra,Adv. Ms. Somya Rathore,Adv. Ms. Manita Verma,Adv. Mr. G. S. Makker,Adv.
--	--

Mr. Rajeev Sharma,Adv.

in C.A.No.813-14/11	Mr. Avijit Bhattacharjee,Adv. Mr. Upma Shrivastava,Adv. Mr. Ajoy Ghosh,Adv.
---------------------	---

For Respondent(s)	Ms. Vibha Datta Makhija,Sr.Adv. Ms. Sunita Sharma,Av. Ms. Amisha Mathur,Adv.
-------------------	--

Mr. C.S. Rajan,Sr.Adv
Mr. V. K. Sidharthan,Adv.

Mr. Satya Mitra Garg,Adv.
Mrs.Manju Aggarwal,Adv.
Mr. D. Kumanan,Adv.

Ms. Madhumita Bhattacharjee,Adv.

Mr. D.S. Mahra, Adv.

Mr. S.N. Terdal, Adv.

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

In C.A.No. 7651 of 2009

Heard learned counsel for the parties.
The appeal is dismissed in terms of the signed
order.

In C.A. Nos. 813-814 of 2011

Heard learned counsel for the parties.
The appeals are disposed of in terms of the
signed order.
Pending applications, if any, stand disposed
of.

(Madhu Bala)
Court Master
(Signed order is placed on the file)

(Suman Jain)
Court Master