

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 5727 of 2008

SECRETARY TO GOVT.& ANR.

Appellant (s)

VERSUS

E.SURYANARAYANA & ORS.

Respondent(s)

WITH

Civil Appeal NO. 5795 of 2008

Civil Appeal NO. 7459 of 2008

Civil Appeal NO. 32 of 2009

SLP(C) NO. 27289 of 2008

SLP(C) NO. 27290 of 2008

O R D E R

All the aforesaid appeals raise the similar question of law, thus for their disposal we take Civil Appeal No.5727/2008 as a leading case.

Civil Appeal No. 5727 of 2008 has been filed against the impugned judgment and order dated 26.3.2008 passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Petition No. 16306 of 2007 by way of which the High Court has dismissed the writ petition filed by the appellants following its earlier judgment in Writ Petition No. 20467 of 2007 dated 25th March, 2008. The Court did not enter into merit of the case and did not examine the facts at all. Several other similar orders have been passed by the High Court following the said earlier judgment and order of the High Court dated 25th March, 2008.

The posts of Supervisors(Assistant Engineers) were governed by the statutory rules, namely, Andhra Pradesh Engineering Subordinate Service Rules. The said rules were amended by notification dated 16th February, 1978 wherein the Draughtsmen belonging to Grade I, II and III were also made eligible for promotion to the said post along with Junior Engineers.

The issue of eligibility and entitlement of such officers arose in Writ Petition No. 8505 of 2007 before the High Court wherein the judgment and order of the Andhra Pradesh Administrative Tribunal dated 26th February, 2007 and subsequent judgments following the same were challenged. The High Court by judgment and order dated 25th April, 2007 held that the respondents therein would be given the reliefs granted by the Tribunal. However, the High Court made the following observations:-

"However, it is made clear that this order shall not preclude the petitioners from challenging any other order or proceedings instituted by the respondents for implementation of the direction contained in the order under challenge."

Subsequent to the aforesaid judgment, various other matters were filed before the Tribunal, some of them had been at a belated stage but without taking note of the High Court direction that the judgment dated 25.4.2007 could not be taken as a precedent, the Tribunal followed the said judgment and granted relief to one after the another.

Being aggrieved, the State Government preferred the writ petitions before the High Court and High Court did not grant any relief to the State following its earlier judgment dated 25th April, 2007 in several subsequent judgments. It is apparent from the aforesaid orders that inspite of the fact that the High Court in its earlier order dated 25.4.2007 had made it clear that the judgment was passed in the facts and circumstances of the case and it would not be treated as a precedent in any subsequent case.

We are of the view that it was not permissible either for the Tribunal or for the High Court to follow the said judgment dated 25.4.2007 without examining the factual controversy involved in each case. More so, there was no justification for the State authorities not to consider individual cases of the Draughtsmen and preparing a list of eligible and entitled persons and a second list of ineligible and unentitled persons.

Therefore, in view of the above, the impugned judgments and orders are set aside with the following directions:-

(1) Each respondent may make a separate representation to the competent authorities within a period of four weeks from today ventilating all his grievances seeking advantage of the amended rules giving all his service particulars.

(2) The authority is requested to examine the said representation and pass order in individual cases within a period of eight weeks thereafter.

(3) In case the representation is accepted, the respondents shall be entitled for all consequential benefits, even if they have retired.

(4) In case the authority does not find any person eligible and/or entitled, it should pass a speaking and reasoned order.

(5) In case the Authority finds someone ineligible or not entitled for the benefits, it will be open for him to raise the grievance before any appropriate forum.

(6) The Committee considering the individual cases must be headed by an Officer not below the rank of a Special Secretary and it must also consist the Engineer-in-Chief of Irrigation Department or his nominee. The Government is at liberty to add any other Officer to the Committee.

The aforesaid civil appeals and special leave petitions stand disposed of accordingly.

.....J.
(DR. B.S. CHAUHAN)

.....J.
(FAKKIR MOHAMED IBRAHIM KALIFULLA)

NEW DELHI
OCTOBER 10, 2012.

ITEM NO.103

Court No.7

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 5727 OF 2008

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Civil Appeal NO. 32 of 2009
(With office report)

Date: 10/10/2012 These matters was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. R. Sundaravardan, Sr. Adv.

Mr. G.N.Reddy, Adv.

Mr. M. Rambabu, Adv.

Mr. S. Nagarajan, Adv.

For Respondent(s)

Mr. R. Santhaaan Krishnan, Adv.

Mr. Praveen Kr. Pandey, Adv.

Mr. P.K. Pandey, Adv.

Mr. C.S.N. Mohan Rao, Adv.

Mr. G.V.R. Choudary, Adv.

Mr. K. Shivraj Choudhuri, Adv.

Mr. A. Chandra Sekhar, Adv.

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

The civil appeals and special leave petitions stand
disposed of in terms of the signed order.

	(DEEPAK MANSUKHANI)		(M.S. NEGI)	
	Court Master		Court Master	

(Signed order is placed on the file)