

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S). 2525-2527 OF 2011

ANIL KUMAR SEHGAL & ORS.ETC.ETC.

Appellant(s)

VERSUS

ANITA VINAYAK & ORS.ETC.ETC.

Respondent(s)

O R D E R

These appeals have been preferred against judgment and order passed by the High Court of Judicature at Allahabad on 19th August, 2009 in Civil Misc. Writ Petition No(s).29117 of 2007, 38755 of 2007 and 25550 of 2006.

Validity of Order dated 22nd September, 1998 passed by the Central Board of Direct Taxes (CBDT) to the effect that the appellants be treated at par with other regular employees for all purposes from the date of their initial appointment, was called in question before the Central Administrative Tribunal, Allahabad Bench, by the private respondents. The Tribunal, vide Order dated 1st September, 2006, quashed the said Order dated 22nd September, 1998, which order of the Tribunal has been affirmed by the High Court.

We have heard learned counsel for the parties.

It is pointed out by learned counsel for the appellants that once the appellants, though initially appointed on ad-hoc basis, were confirmed in service vide Order dated 11th June,

1982 and 17th April, 1984, they were entitled to be given seniority from the said dates. Though in Order dated 22nd September, 1998 they were held to be entitled to seniority from the initial date of appointment but the appellants claimed relief of seniority only from the date of confirmation. It is submitted that any person appointed after the confirmation of the appellants, were to be placed below them in the seniority list as was rightly done by the Department, not only in the impugned order but even earlier while issuing seniority lists in the years 1984, 1989, 1991 and 1992. In view of above, it was argued by learned counsel that the Tribunal and the High Court erred in interfering with Order dated 22nd September, 1998. It is further submitted by learned counsel for the appellants that some of the persons, of the above categories, have already retired from service and there is no proposal of the Department to undo the confirmation which took place about 35 years earlier in the year 1982.

Learned counsel for the original applicants before the Tribunal have opposed the above prayer and submitted that since their initial appointment was not in accordance with the relevant Rules and there was no provision in the rules for confirmation or persons appointed on ad-hoc basis, the appellants could not be given seniority above the private respondents, as rightly held by the Tribunal and the High Court.

After due consideration, we find merit in the submission made on behalf of the appellants, having regard to the fact situation of this case. If the appellants have already been in service for as many as 35 years and they were confirmed in service by a conscious decision, which was further followed up by inclusion of their names in the seniority lists for as many as 16 years or so, the Tribunal, in our view, could not disturb the seniority which has been acted upon for a long time.

In the result, these appeals are allowed in above terms and the impugned order is set aside. No costs.

Applications, if any, shall also stand disposed of.

.....J.
(ADARSH KUMAR GOEL)

.....J.
(UDAY UMESH LALIT)

New Delhi,
JANUARY 24, 2017.

ITEM NO.103

COURT NO.11

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

Civil Appeal No(s). 2525-2527 of 2011

ANIL KUMAR SEHGAL & ORS. ETC.ETC.

Appellant(s)

VERSUS

ANITA VINAYAK & ORS. ETC.ETC.

Respondent(s)

(with appln. (s) for modification of court's order and permission to file additional documents and directions and permission to file additional documents and intervention and permission to file additional documents and impleadment and directions and office report)

Date : 24/01/2017 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) Mr. Manoj Swarup,Adv.
 Mr. Ankit Swarup,Adv.
 Ms. Tanya Swarup,Adv.
 Mr. Soheb Rahman,Adv.
 Mr. Rohit Kumar Singh,Adv.

For Respondent(s) Ms. Pinky Anand,ASG
 Ms. Niranjana Singh,Adv.
 Ms. Sadhana Sandhu,Adv.
 Ms. Rekha Pandey,Adv.
 Mr. Arijit Prasad,Adv.
 Mr. Rajesh Ranjan,Adv.
 Ms. Snidha Mehra,Adv.
 Mr. Ansh Singh Luthra,Adv.
 Mr. Ravindera Kumar Verma,Adv.
 Mr. Rajesh R.,Adv.
 Mr. Mukesh Kumar Maroria,Adv.
 Mrs. Anil Katiyar,Adv.

Mr. V. Shekhar,Sr.Adv.
Mr. J.M. Sharma,Sr.Adv.
Mr. R. Santhnana Krishnan,Adv.
Mr. Aditya Kr.,Adv.
Ms. Shweta Jain,Adv.
Mr. Soumo P.,Adv.
Mr. Amit K. Nain,Adv.

Mr. S.R. Singh, Sr. Adv.
Mr. Ajay Kumar Singh, Adv.
Ms. Shweta Yadav, Adv.

Mr. D. Mahesh Babu, Adv.

Ms. Mridula Ray Bharadwaj, Adv.

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

In terms of the signed order, these appeals are allowed:

"After due consideration, we find merit in the submission made on behalf of the appellants, having regard to the fact situation of this case. If the appellants have already been in service for as many as 35 years and they were confirmed in service by a conscious decision, which was further followed up by inclusion of their names in the seniority lists for as many as 16 years or so, the Tribunal, in our view, could not disturb the seniority which has been acted upon for a long time.

In the result, these appeals are allowed in above terms and the impugned order is set aside. No costs.

Applications, if any, shall also stand disposed of."

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)