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ITEM NO.43

COURT NO.3

SECTION IVA

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).26852-26867/2011

(From the judgement and order dated 13/06/2011 in WP Nos.30317/2010, WP No.30423-429/2010 and WP No.36819/2010 and WP No.38064-70/2010 of The HIGH COURT OF KARNATAKA AT BANGALORE)

N. GOVINDARAJU & ORS.

Petitioner(s)

VERSUS

KARNATAKA PUBLIC SERVICE COMMISSION &ORS

Respondent(s)

(With prayer for interim relief and office report)

Date: 01/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr. K. Radhakrishnan, Sr. Adv.
Mrs. Rajani K. Prasad, Adv.

For Respondent(s) Mr. A.S. Bhasme, Adv.
Mr. Pankaj Mishra, Adv.
Mr. P. George Giri, Adv.

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

These petitions are directed against order dated 13.6.2011 passed by the Division Bench of the Karnataka High Court whereby the writ petitions filed by the official and the private respondents were allowed and the order passed by the Karnataka Administrative Tribunal (for short, 'the Tribunal') quashing the selection of the private respondents for appointment on the posts of Drug Inspector was set aside.

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We have heard Mr.K. Radhakrishnan, learned senior counsel appearing for the petitioners at some length and carefully perused the impugned order.

In our opinion, the order passed by the Tribunal suffered from the fundamental flaw of non-impleadment of the selected candidates as parties to the original application filed by the petitioners. Although, the Tribunal had, while deciding the application for interim relief filed by the petitioners indicated that the appointments made henceforth will be subject to final adjudication of the original application, that was not sufficient to relieve the petitioners of their obligation to implead the selected candidates as parties and in their absence, the Tribunal could not have nullified the selection made for appointment on the posts of Drug Inspector.

Mr. Radhakrishnan, learned senior counsel for the petitioners did argue that the Karnataka Health and Family Welfare Services (Drug Control Department Non-teaching Staff)(Recruitment) Rules, 2002, which are in the nature of special rules have overriding effect over the Karnataka Civil Services (Direct Recruitment by Competitive Examinations and Selection)(General) Rules 2006, and the selection made de-hors

the 2002 Rules are

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nullity, but we are not inclined to entertain this argument because no such point was raised before the High Court.

We are further of the view that the High Court did not commit any error by holding that in terms of Rules 5 and 6 of the 2006 Rules, the selection was to be made on the basis of the marks secured by the candidates in the qualifying examination and not by taking into consideration 3 years experience prescribed under Rule 12 of the 2002 Rules or the provisions contained in the Drugs and Cosmetics Rules, 1945.

With the above observations, the special leave petitions are dismissed.

[SUMAN WADHWA]
A.R.-CUM-P.S.

[PHOOLAN WATI ARORA]
COURT MASTER