

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.9391-9394 of 2013

UNION OF INDIA & ANR.

...Appellant(s)

Vs.

SANGEETA KALRA & ANR. ETC.

...Respondent(s)

O R D E R

1. We have heard the learned Additional Solicitor General in support of the appeals, Mr. Neeraj Jain and Dr. K.S.Chauhan, learned senior counsel and Mr. Jaspal Singh Manipur, learned counsel for the respondents.

2. The entire issue revolves around the judgment dated 15th July, 2008 passed by the Central Administrative Tribunal, Chandigarh Bench in the case of Bhim Singh and Anr v. Union of India & Anr. There were two applicants in the said case who were working as Senior Accountant/Accountant. As can be seen from the said judgment, both belonged to Scheduled Caste category. They claimed promotion to the post of Section Officer which was governed by statutory Rules of 1988.

3. It was pointed out that in the year 1996 and 2002, 16 posts of Section Officers and 133 more posts of Section Officers (Ad-hoc) were created. It was pointed out that out of these posts, 52 were reserved for Scheduled Caste category, out of which only 15 posts were filled in. The Tribunal, after considering the submissions made across the bar, observed that the applicants had appeared for Section Officers Grade Examination (SOGE) in May/June, 2004 and they were declared as qualified on 5th January, 2005. The Tribunal referred to a letter dated 10th/11th January, 2005 which records that no further ad-hoc promotions will be given to those who passed SOGE in 1996 batch. The Tribunal read the said letter to mean that the prohibition imposed on granting ad-hoc promotions will not apply to Scheduled Caste candidates. Therefore, the Tribunal granted relief to the applicants who were Scheduled Caste candidates by directing that their cases should be considered for the grant of promotion on the post of Section Officers (Ad-hoc) against the Scheduled Caste quota wherein such vacancies were admittedly available.

4. Based on the said decision, the respondents in the appeal moved the Administrative Tribunal. The Administrative Tribunal held that the decision in the case of Bhim Singh has attained finality. After noting that the judgment in

the case of Bhim Singh was only in relation to the reserved category officials, the Tribunal held that when there were vacant posts of Section Officers on which ad-hoc promotions could be granted, there was no reason to discriminate between the candidates belonging to general category and those who belonged to reserved category and that is how ultimately the Tribunal ended up in granting reliefs in terms of the decision in the case of Bhim Singh even in relation to the candidates who belonged to general category.

5. The main submission canvassed by the learned Additional Solicitor General is that benefits could have been granted on the basis of the decision in the case of Bhim Singh only to Scheduled Caste category candidates so that the backlog of Scheduled Caste category in the posts of Section Officers (ad-hoc) could be filled in. Her submission is that there is no reason to extend the same benefits to those who belonged to general category. Another contention of the learned Additional Solicitor General is also that the decision in the case of Bhim Singh will apply only to those candidates who have cleared the examination before 10th/11th January, 2005.

6. Learned senior counsel for the respondents pointed out that some of the respondents in these appeals (respondents in Civil Appeal Nos. 9392 and 9393 of 2013) belong to Scheduled Caste category. It is pointed out by them even those who belong to open category were later on given promotion in the year 2009 on ad-hoc posts of Section Officer and now most of them have been granted regular promotions.

7. After having carefully considered the submissions, we find that there may be some merit in the contention of the learned Additional Solicitor General that the benefits as per the case of Bhim Singh's judgment were available only to those candidates who belonged to Scheduled Caste and who had cleared the examination before 10th/11th January, 2005.

8. However, a perusal of the judgment of the Tribunal which was impugned before the High Court shows that the Tribunal after noticing that there were large number of vacancies in the ad-hoc posts of Section Officers, directed that those open category candidates who had cleared the examination in the year 2005 should be considered for grant of ad-hoc promotion. The same is the view taken by the High Court in the impugned judgment.

9. A finding has been recorded that there were many vacant posts of Section Officers and that the respondents who belonged to open category had cleared the examination in 2005 and therefore, they should be accommodated on the said posts. Now even those who belong to open category have been promoted in the year 2009 on ad-hoc posts. Therefore, we are of the view that it is not necessary to interfere with that part of the impugned orders which direct that the cases of candidates who belonged to open category and who cleared the examination in 2005 should be considered for grant of ad-hoc promotion on the ad-hoc posts of Section Officer. There cannot be any dispute that benefit of Bhim Singh's case will have to be granted to those respondents who belonged to Scheduled Caste and who cleared the examination in 2005.

10. However, as far as the open category candidates are concerned in whose favour impugned order has been passed, we direct that their cases shall be considered only for the purposes of granting notional ad-hoc promotion and even if they are granted notional promotion, the only benefit which they will be entitled to will be of the pay fixation on the basis of the date on which they are granted notional ad-hoc promotion in terms of the orders impugned as clarified by us.

11. We are adopting this approach as we are informed that there are maximum 12 open category candidates who have cleared the examination in 2005. We make it clear that we are granting this relief only because the respondents have been litigating from the year 2009.

12. The appeals are partly allowed in the above terms.

13. We, however, make it clear that the issue of law concerning the applicability of decision in the case of Bhim Singh is kept open. We make it further clear that in the peculiar facts of these cases that we have granted this relief to the respondents and therefore, similarly placed persons who have not claimed any relief by approaching the Tribunal will not be entitled to claim any relief on the basis of this judgment.

.....J.
[ABHAY S.OKA]

.....J.
[RAJESH BINDAL]

New Delhi;
March 1, 2023.

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). 9391-9394/2013

UNION OF INDIA & ANR.

Appellant(s)

VERSUS

SANGEETA KALRA & ANR.ETC.

Respondent(s)

([PART-HEARD BY : HON'BLE ABHAY S.OKA AND HON'BLE RAJESH BINDAL,
JJ.][TOP OF THE BOARD AS FIRST ITEM])

Date : 01-03-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE RAJESH BINDAL

For Appellant(s)

Mrs. Aishwarya Bhati, A.S.G.
Mr. Raj Bahadur Yadav, AOR
Mrs. Snidha Mehra, Adv.
Mrs. Rukhmani Bobde, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Adit Khorana, Adv.
Mr. Shubranshu Padhi, Adv.
Mr. Udai Khanna, Adv.

For Respondent(s)

Mr. Neeraj Jain, Sr. Adv.
Ms. Anubha Agrawal, AOR

Dr. K.S. Chauhan, Sr. Adv.
Mr. Ajit Kumar Ekka, AOR
Mr. R.S.M. Kalky, Adv.
Mr. S.P. Singh, Adv.
Mr. Abhishek Chauhan, Adv.
Mr. Ravi Prakash, Adv.
Mr. Murari Lal, Adv.

Mr. Jaspal Singh Manipur, Adv.
Mr. Tushar Bakshi, AOR

Mr. Vipin Kumar Jai, AOR

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

The appeals are partly allowed in terms of the
signed order.

Pending application, if any, also stands disposed
of.

(ANITA MALHOTRA)
AR-CUM-PS

(NAND KISHOR)
COURT MASTER

(Signed order is placed on the file.)