

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4532 OF 2009
(Arising out of SLP(C) No. 29265 of 2008)

STATE OF PUNJAB & OTHERS

...APPELLANT (S)

VERSUS

DR. SANJAY KUMAR BANSAL

...RESPONDENT(S)

ORDER

KAPADIA, J.

Leave granted.

The short question which arises for determination in this case is whether the High Court was right in directing the Administration to grant special leave of five years for self employment to the respondent on the ground of alleged discrimination in grant of such special leave to others and not to the respondent.

Special leave is not a matter of right vested in the employee. It depends on the administrative exigencies. In the present case the respondent is working as a Medical Officer. He had applied for special leave for three years under the Scheme which is Annexure P-3 collectively in the Special Leave Petition Paper Book. We have gone through Annexure P-3. It merely categorizes employees who are entitled to apply for special leave and those who cannot apply for special leave. Such policy does not confer any right on the applicant to obtain special leave. On facts, the question of striking down the Order of Administration does not arise for the simple reason that in the counter the Administration has stated that shortage of doctors is one of reasons for not granting special leave. In our view these are matters which fall in the category of “administrative exigencies” and this Court cannot sit in Appeal thereon. In the

circumstances, the High Court had erred in coming to the conclusion that the Management had erred in refusing the application for want of reasons.

Even on the case of discrimination it is for the Administration/Management to take into account the contingencies which may arise in the course of administration. The services of an employee may be required in a given case on more emergent basis vis-a-vis other employees. In such cases the services rendered by an employee, his seniority, the nature of work which he is required to do, his responsibilities etc. are required to be taken into account while taking decision on such applications. Lastly, it may be stated that in the Original Writ Petition, factual malafides have not been pleaded by the respondent.

In the circumstances, we set aside the impugned judgment of the High Court. The Civil Appeal stands allowed with no order as to costs.

.....J.
[S.H. KAPADIA]

New Delhi,
July 16, 2009

.....J
[AFTAB ALAM]

JUDGMENT

ITEM NO.10

COURT NO.4

SECTION IVB

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

Petition(s) for Special Leave to Appeal (Civil) No(s).29265/2008

**(From the judgment and order dated 06/08/2008 in CWP No. 13630/2007
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)**

STATE OF PUNJAB & ORS.**Petitioner(s)****VERSUS****SANJAY KUMAR BANSAL****Respondent(s)****(With prayer for interim relief and office report)**

Date: 16/07/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s) Mr. H.M. Singh, Adv.
Ms. Jasmeet Kaur, Adv.
Mr. Praveen Kumar, Adv.
Mr. Kuldip Singh, Adv.

For Respondent(s) Mr. A.Venayagam Balan, Adv.

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

Leave granted.

The Civil Appeal is allowed with no order as to costs.

(S. Thapar)
PS to Registrar

(Madhu Saxena)
Court Master

The signed reportable order is placed on the file.

