

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
PELLANT(S)

...AP

VERSUS

DR. SANJAY KUMAR BANSAAL
RESPONDENT(S)

...RE

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 short age 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-

à-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 .

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[S.H. KAPADIA]

New Delhi, J
July 16, 2009 [A F T A B A L A M]

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IT EM NO.1 0

COUR T NO.4

S E C T I O N 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) . 2 9 2 6 5 / 2 0 0 8

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

S T A T E OF P U N J A B & O R S .

P e t i t i o n e r (s)

V E R S U S

S A N J A Y K U M A R B A N S A L

R e s p o n d e n t (s)

(Wit h p r a y e r f o r i n t e r i m r e l i e f a n d o f f i c e r e p o r t)

Date: 16/07/2009

This P e t i t i o n w a s c a l l e d o n f o r h e a r i n g t o d a y .

C O R A M :

H O N ' B L E M R . J U S T I C E S . H . K A P A D I A

H O N ' B L E M R . J U S T I C E A F T A B A L A M

F o r P e t i t i o n e r (s)

Mr. H.M. Singh, Adv.

Ms. J a s m e e t K a u r , Adv.

Mr. P r a v e e n K u m a r , Adv.

Mr. K u l d i p S i n g h , Adv .

F o r R e s p o n d e n t (s)

Mr. A.V e n a y a g a m B a l a n , Adv .

U P O N h e a r i n g c o u n s e l t h e C o u r t m a d e t h e f o l l o w i n g
O R D E R

Leave gran te d.

The Civil Appe al is allo w e d w i t h n o o r d e r a s t o c o s t s .

(S. Th a p a r)
PS to Regis t r a r
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(Madh u Saxen a)
Cour t Maste r

The signed rep o r t a b l e o r d e r is placed on the file.