

SECTION XI
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Listed on: WL-19/14
Court No.: 1
Item No.: 2

CIVIL APPEAL NO. 3695, 3685, 3686, 3687, 3688, 3704, 3705, 3706 OF 2007 AND 3115-3127 of 2012

WITH

INTERLOCUTORY APPLICATION NO. 3 in Civil Appeal Nos. 3695 and 3704 of 2007.
(Application for impleadment filed by Mr.H.S.Parihar, Advocate)

AND

INTERLOCUTORY APPLICATION NO. 9 in Civil Appeal Nos. 3695 of 2007.
(Application for clarification/directions filed by Mr.Shiv Sagar Tiwari,Advocate)

AND

INTERLOCUTORY APPLICATION NO.2
(Application for directions filed by Mr. Alok Kumar Singh, Appeallant No.3 in Person)

WITH

Special Leave Petition (CIVIL) NO. 28395, 28535-28536, 28917, 33760 OF 2011

WITH

Special Leave Petition (CIVIL) NO. 3435 OF 2012

WITH

INTERLOCUTORY APPLICATION NOS. 1-2

(Application for permission to file Special Leave Petition)

IN

Special Leave Petition (CIVIL) NO. CCNO. 14685/2013

ATIBAL SINGH & ORS.

.... APPELLANT (S)

VERSUS

PRAMOD SHANKAR UPADHYAY & ORS.

.... RESPONDENTS

REVISED OFFICE REPORT

The appeal alongwith connected matters above mentioned alongwith office report dated 05.07.2013 were listed before the Hon'ble Court on 24.10.2013 when the Court was pleased to pass the following order:

“We have heard learned counsel for the parties at considerable length. Substantial questions of law touching the interpretation of the relevant Rules arise for consideration in these cases. One of the questions is whether Service Rules of 1936 that were applicable to the parties till 2004 Rules came into force prescribe the requirement of the diploma holder engineers appearing and passing a qualifying examination for promotion to the next higher post of Assistant Engineers. It was submitted that the said requirement stood deleted by the amendments that were made from time to time. The Judgments of the Allahabad High Court striking down the amendments and of this Court in P.D.Agarwal's case did not it was contended have the effect of reviving that requirement.

...2/-

Not only that for a period of 15 years between 1987 and 2002 when the amended Rules were operating no such examination was conducted or insisted upon on account of the said amendments. With the advent of the new Rules from the year 2004 onwards also diploma holders are not required to take any such examination for promotion to the next higher post. The result is that the requirement of the diploma holders passing a qualifying examination for promotion as Assistant Engineers is limited to the vacancies that became available during the short interregnum only. Correctness of the view taken by the High Court of Allahabad that the qualifying examination continued to be a requirement for promotion of the diploma holders for that interregnum was never examined on merits as the appeal filed against that judgment was dismissed as withdrawn. Correctness of the decision rendered by a two-Judge Bench of this Court in Diploma Engineers Sangh Vs. State of U.P. and Ors. 2007 (13) SCC 300 holding that the requirement of a qualifying examination continued and directing the conduct of such an examination shall therefore have to be examined according to Mr. Patwalia, learned counsel appearing for some of the Engineers.

In the circumstances, therefore, and keeping in view the importance of the questions that fall for determination, we deem it proper to refer all these cases to a three Judge Bench to be constituted by Hon'ble Chief Justice of India for final hearing and disposal.

Additional copies of the paper books, if so required, shall be furnished by learned counsel for the appellant in each appeal within four weeks from today. Papers be placed before the Hon'ble Chief Justice of India for constituting an appropriate Bench.”

It is submitted that the service is complete in all the civil appeals and SLPs except SLP(CC) 14685/2013 .

It is further submitted that I. A No 3 in Civil appeal Nos. 3695 and 3704 of 2007 were listed before the Hon'ble Court on 5/9/2011 when the Hon'ble Court directed to consider the I. As at the time of final hearing of these appeals.

It is submitted that the matters above mentioned were listed by mentioning before the Hon'ble Court on 02.01.2014, when the Court was pleased to pass the following order:

“List next week before an appropriate Bench.”

It is further submitted that Mr. Alok Kumar Singh, Appellant No.3 in person has on 08.08.2014 filed an Interlocutory Application for directions. The same has been registered as Interlocutory Application No.2

SLP(CC) no. 14685/2013

The Special Leave Petition above mentioned has been filed against the Judgment and Order dated 3.11.2006 of the High Court of Judicature at Allahabad, Lucknow Bench Lucknow in CMWP no 53133/2004. It is submitted that there is delay of 2372 days in Special Leave Petition filed against order dated 3.11.2006 and counsel has filed an application for condonation of delay.

It is further submitted that Civil appeal no. 4194/2002 referred to Annexure P-1 was dismissed by the Court on 1.8.2006 (copy of order dated 1.8.2006 is marked as annexure P-1 at page no 189)

The matters above mentioned are listed before the Hon'ble Court with this office report.

Dated this the 11th day of August, 2014.

ASSISTANT REGISTRAR

Copy to: M/s Mahalakshi Balaji & Co., Advs.

Mr. H.S. Parihar, Adv.

Mr. T C Sharma, Adv.

Mr. C D Singh, Adv.

Mr. P.V. Yogeswaran, Adv.

Mr. Varinder Kumar Sharma, Adv.

Mr. Shiv Sagar Tiwari, Adv.

Mr. Rohit Kumar Singh, Adv.

Mr. Alok Kumar Singh, Petitioner No. 4 in person in SLP (c) No. 28535-36 of 2011

ASSISTANT REGISTRAR