

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).14594/2013

(From the judgement and order dated 13/12/2012 in LPASW No.90/2011 of the
HIGH COURT OF J & K AT JAMMU)

RAJEN WARIKOO & ORS.

Petitioner(s)

VERSUS

STATE OF JAMMU & KASHMIR

Respondent(s)

(With appln(s) for permission to place addl. documents on record,permission
to file additional documents and prayer for interim relief and office
report)

Date: 29/04/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. GOKHALE

HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.
Mr. Rajshekhar Rao, Adv.
Mr. Abhinav Mukerji, Adv.
Mr. Angad Kochar, Adv.

For Respondent(s) Mr. Sunil Fernandes, Adv.
Ms. Astha Sharma, Adv.
Ms. Insha Mir, Adv.
Ms. Ankita Mishra, Adv.

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

Heard Mr. Patwalia, learned senior counsel appearing on
behalf of the petitioners and Mr. Fernandes, learned counsel appearing
for the State of J & K.

The dispute in the present matter is with respect to the
promotional facility to the petitioners who were initially working as
Village Extension Workers in the Agriculture Production Department. In
an earlier round of proceedings, the Division Bench of the High Court
of Jammu & Kashmir had given two directions: (a) One was that the
State Government shall consider relaxation of the relevant Rules of
1998 in terms of Rule 9 thereof for the purposes of accommodating the
petitioners into the posts of Subject Matter Experts; (b) The second
option was that if relaxation of the Rules was not possible, the
persons concerned may be sent back to their parent departments on a
promotion post, which by then had been acquired by their batchmates.
The Government accepted option (b) and that decision led to one more
round of litigation including the impugned order.

The submission of the petitioners is that it did not reflect
from the Government order that there was any consideration of option
(a) above. With respect to this submission, it is seen that the

Government has considered both these options, though not in so many words, and accepted option (b). The State Government has been left undisturbed by the impugned order. One reason given by the Division Bench of the High Court in the impugned order is that the petitioners were Village Extension Workers, whereas there was one more post above them, namely, Agriculture Extension Officers, and they were persons who have been given placement as Subject Matter Specialists on their attaining necessary educational qualifications. The petitioners claim that they too should have been accepted from the date of their attaining the necessary educational qualifications and given the placement of Subject Matter Specialists.

In view of the fact that there is one more post in between petitioners' present post (i.e. Village Extension Worker) and that of Subject Matter Specialist, the High Court has declined their submission. Such a jumping of the promotional ladder was not accepted by the High Court. The High Court, however, observed in the impugned judgment that once the petitioners go back to their parent department in accordance with direction (b), their cases would be examined vis-a-vis their juniors for promotion as Agriculture Extension Officers.

Mr. Patwalia, learned senior counsel for the petitioners expresses an apprehension and points out that the State Government may contend that the petitioners can come to the position of Agriculture Extension Officers and above, only through State Public Service Commission. We, therefore, make it clear that as far as the posts which are meant for promotion are concerned, in those posts the petitioners shall be considered depending upon their seniority vis-a-vis their juniors. We expect the Government to act accordingly. With this clarification we do not see any other reason to interfere with the order passed by the High Court. The special leave petition is accordingly dismissed.

(A.S. BISHT)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER