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MADHUKAR SINHA

v.

UNION OF INDIA AND ORS.

SEPTEMBER 13, 1991

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[S. RATNAVEL PANDIAN, M. FATHIMA BEEVI AND
K. JAYACHANDRA REDDY, JJ.]

Service Law : Civil Services Examination, 1990—Seniority of successful candidates—Directions by the Court.

C

The appellant filed an application before the Central Administrative Tribunal, Patna Bench, for a declaration that the second proviso to rule 4 of Civil Services Examination Rules was violative of Articles 14 and 16 of the Constitution of India. By an interim order the Tribunal allowed the appellant to appear at the Civil Services (Main) Examination, 1990, subject to the result of the final orders in the original application. The said application was transferred to this Court.

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In a bunch of similar cases, the Central Administrative Tribunal, Delhi upheld the validity of Rule 4 of Civil Services Examination Rules. In appeal to this Court (Civil Appeal Nos. 5439-52/90)** by an interim order dated 7.12.1990, the appellants therein were allowed to appear in Civil Services (Main) Examination, 1990; and while finally disposing of the appeals, the judgment of CAT, Delhi was affirmed.

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Dismissing the case of the appellant in view of the judgment in C.As Nos. 5439-52/90,** this Court,

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HELD: The appellant was also entitled to the same benefits as granted to the appellants in Civil Appeals No. 5439-52/90, namely :

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(i) All those candidates who appeared for the Civil Services (Main) Examination, 1990, pursuant to this Court's order dated 7.12.90 and qualified themselves for the interview, shall be permitted to appear for the interview test and that if those candidates completely and satisfactorily qualify themselves by getting through the written examinations as well as the interview shall be given proper allocation and appointment on the basis of their rank in the merit list notwithstanding the restriction imposed by the second proviso to rule 4 and this Court's judgment

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upholding the validity of the said proviso since the respondents have not questioned and challenged the directions given by C.A.T., Principal Bench, Delhi in its judgment dated 20.8.1990.

(ii) The un-challenged directions given by the C.A.T. in its judgment as well as directions given by this Court in its order dated 7.12.90 were not controlled by any rider in the sense that the said directions were subject to the result of the cases and hence those directions would be confined only to those candidates who appeared for C.S.E. 1990 and no further. The seniority of those successful candidates in C.S.E. 1990 would depend on the service to which they have qualified. The seniority of the left out candidates would be maintained in case they have joined the service to which they have been allocated on the result of previous C.S.E. and such candidates will not be subjected to suffer loss of seniority as held by the C. A. T. Delhi in its judgment . [pp 114 H, 115A-D]

****Mohan Kumar Singhania & Ors. v. Union of India, [1991] Supp. 1 SCR 46**

CIVIL APPELLATE JURISDICTION: Transferred Case No. 2 of 1991.

(Under Article 139-A(1) of the Constitution of India)

Salman Khurshid, Madhan Panikkar, Mrs. Vimla Sinha and Gopal Singh for the Appellant.

Kapil Sibal and Arun Jaitley, Additional Solicitor Generals, Ms. Kamini Jaiswal and C.V.S. Rao for the Respondents.

The Judgment of the Court was delivered by

S. RATNAVEL PANDIAN, J. The above case has been registered in pursuance of our order dated 23.11.90 in Transfer Petition (Civil) No.546/90 transferring O.A.No.191 of 1990 under Article 139 (A) of the Constitution of India from the file of the Central Administrative Tribunal, Patna Bench, Patna. The appellant's prayer is to dispose of the above case along with Civil Appeal Nos. 5439-52/90 (arising out of SLP (Civil) Nos. 13525-38 of 1990). The relief sought for by the appellant before the CAT, Patna Bench was similar to the one before the CAT, Principal Bench, Delhi that being to declare the second proviso to Rule 4 of C.S.E. as violative of Articles 14 and 16 of the Constitution of India. On 29.8.90 the

A Patna Bench in M.P. No. 36/90 granted an interim relief which reads thus:

"Heard the learned counsel for the applicant. The applicant may be allowed to appear at the Civil Services Main Examination, 1990, subject to result of the final orders in the original application. The respondents are directed accordingly. Copy be given to the parties today."

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Mr. Salman Khurshid appearing for the appellant submitted that the interim direction given by the Patna Bench if covered by the directions given in paras 5(ii) and 6 of the order of CAT, Delhi he has no further submission to be made, and the implementation of those directions will satisfy his relief.

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We in our order dated 7.12.1990 have clarified certain directions given by the CAT, Delhi with reference to the various interim orders passed by it in a number of OAs and finally gave the following direction:

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"Hence we permit all those candidates falling under Para Nos. 5 (ii), 6 and 7 to sit for the main examination subject to the condition that each candidate satisfies the Secretary, Union Public Service Commission that he/she falls within these categories and that the concerned candidates have passed the preliminary examination of 1990 and have also applied for the main examination within the due date. This permission is only for the ensuing examination. As we are now permitting those who have passed the preliminary examination of 1990 and have applied for the main examination on the basis of the unquestioned and unchallenged directions given under paras 5(ii), 6 and 7 of the judgment of the CAT, Principal Bench, New Delhi, the same benefit is extended to the other appellants also who satisfy those conditions as mentioned under paras 5 (ii), 6 and 7."

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The above direction virtually confirms the direction given by the Patna Bench in M.P. No.36/90 allowing the appellant therein to sit for C.S.E. (Main) of 1990. However, we have not subjected our direction with any rider in the sense that that direction will be subjected to the result of the appeals. In fact, we have in the judgment rendered today in Civil Appeal Nos. 5439-52/90 and batches given a direction to the respondents inclusive of the Union Public Service Commission that "all those candidates who have appeared for the Civil Services (Main) Examination, 1990, pursuant to our permission given in the order dated 7.12.90 and who have

come out successfully in the said examination and thereby have qualified themselves for the interview, shall be permitted to appear for the interview test and that if those candidates completely and satisfactorily qualify themselves by getting through the written examinations as well as the interview shall be given proper allocation and appointment on the basis of their rank in the merit list notwithstanding the restriction imposed by the second proviso and our present judgment upholding the validity of the said proviso since the respondents have not questioned and challenged the directions given by CAT, Principal Bench, Delhi in paragraphs 5(ii), 6 and 7 of its judgment dated 20.8.1990. We would like to make it clear that the unchallenged directions given by the CAT in its judgment as well as directions given by us in our order dated 7.12.90 are not controlled by any rider in the sense that the said directions were subject to the result of the cases and hence those directions would be confined only to those candidates who appeared for CSE, 1990 and no further. The seniority of those successful candidates in CSE, 1990 would depend on the service to which they have qualified. The seniority of the left-out candidates would be maintained in case they have joined the service to which they have been allocated on the result of previous CSE and such candidates will not be subjected to suffer loss of seniority as held by the CAT, Delhi in its judgment".

Therefore, we hold that this appellant is also entitled for the same above benefit. In other respects, this transferred case is dismissed for the reasons mentioned in the main judgment in Civil Appeal Nos. 5439-52/90 and batches. No order as to costs.

R.P.

Appeal dismissed.