

A U.P. STATE ROAD TRANSPORT CORPN.
THROUGH ITS MANAGING DIRECTOR AND ANR.
v.
B GOBARDHAN AND ANR.

SEPTEMBER 20, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

C *U.P State Road Transport Corporation—Waiting list of candidates to be recruited during peak season or during suspension of conductors or against leave vacancy for 15 days or one month—Appointed after notification in newspapers—In respect of absentees seniority not adhered to and juniors appointed—Respondent not appointed though some of his juniors were appointed and regularised—Filed writ petition—High Court directing the Corporation to appoint him—On appeal held, after cancellation of the wait-list procedure, though no one has a right, those on the wait list need to be considered in accordance with the rules in view of the fact that their juniors got appointment and were even regularised—Appellant-Corporation directed to consider the case of respondent as a special case and make appointment according to the procedure—Others who had not approached or would approach the Court belatedly would not be entitled to any relief.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12286 of 1996.

F From the Judgment and Order dated 31.8.95 of the Allahabad High Court in W.P. No. 6727 of 1993.

Pradeep Misra for the Appellants.

S.K. Bhattacharya and P.K. Jain for the Respondents.

G The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

H This appeal by special leave arises from the judgment of the Al-

lahabad High Court made on August 31, 1995 in Writ Petition 6727/93. For the recruitment in the year 1980, the Regional Manager of the appellant-Corporation had prepared a waiting list of 414 candidates to be recruited during peak season or during suspension of any conductors or against leave vacancy for 15 days or one month. It would appear that the list continued for 1980- 81, 1981-82 and 1982-83. The appointments were to be made during the peak season by notification in the newspapers and whoever would come within 7 days would be given appointment. Thereafter, in respect of absentees, seniority was not being adhered to and juniors were given appointments. It would appear that the respondent is one of the candidates placed in the seniority list. Since he had not received the intimation, he did not join during the peak seasons. He filed a writ petition in 1993 challenging his non-appoint, he took the plea that those juniors to him were already appointed and some of them were even regularised. The High Court has accepted the contention and given the direction to appoint him to the post of conductor since some of his juniors had come to be appointed, Thus, this appeal by special leave.

Shri Pradeep Misra, learned counsel for the Corporation, has contended that the Corporation has evolved the principle of wait list to meet the contingencies during peak season etc. The wait- list, for the year 1980 in fact was cancelled in July 19, 1980; the writ petition which came to be filed against the cancellation were dismissed; the respondent filed the writ petition for the first time in 1983; from, 1988 onwards, the wait-list procedure has been dispensed with and, therefore, the High Court was not justified in giving the direction. Shri Bhattacharya, learned counsel for the respondent, contended that since the newspaper had no circulation in the region in which he was living he could not see the newspaper publication; as a result, he could not appear and join the post; but since his juniors came to be appointed and some of them were even regularised, he is also entitled to the same benefit. Though we find force in the contention of Shri Pradeep Misra that the candidates have no right to the post since they are in the wait-list, since the Corporation has already appointed some of the juniors who are in the waiting list, necessarily, before following that procedure, they should have given intimation to those candidates who were placed in the waiting list; if even then they do not turn up, then it could be taken that they have waived the right of appointment. But in this case, it might be that a candidate who was in the waiting list was under the expectation that he would get an order of appointment from the Corpora-

- A. tion as and when the vacancy arises and may be he could not read the newspaper, though published. Under these circumstances, we think that after the cancellation of the wait-list procedure, though no one has a right; those who were on the wait list need to be considered in accordance with the rules in view of the fact that their juniors had got appointment and were even regularised. Therefore, the appellants are directed to consider the case of the respondent as a special case and make appointment according to the procedure.
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Any other persons who had not approached or would approach the Court belatedly, would not be entitled to any relief.

- C The Appeal is accordingly disposed of. No costs.

G.N.

Appeals disposed.