
(2000) 09 SC CK 0018

In the Supreme Court Of India

Case No : Civil Appeal No. 4898 of 2000 (Arising out of SLP (C) No. 3803 of 2000)

Union of India (UOI) and Others

APPELLANT

Vs

Gurdeep Singh

RESPONDENT

Date of Decision : 05-09-2000

Acts Referred:

Citation : (2000) 10 JT 488 : (2001) 10 SCC 199

Hon'ble Judges : R. P. Sethi, J;K. T. Thomas, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. The respondent was a Hawaldar - a general duty staff clerk - attached to the Army. He was detailed for Orientation Course but that permission was subsequently withdrawn on the premise that he did not possess the requisite experience. Order withdrawing him from the Orientation Course was passed in 1990. He challenged it in a writ petition, filed before the Punjab and Haryana High Court in 1995. That writ petition was dismissed for want of jurisdiction and therefore, he subsequently filed a writ petition before the High Court of Delhi. A learned Single Judge of the High Court of Delhi allowed the writ petition and directed the appellants herein to admit him in the Orientation Course to be commenced in the nearest future "as against 1989 quota". That judgment of the learned Single Judge was challenged in LPA before a Division Bench. But learned Judges of the Division Bench did not go into the matter and instantly dismissed the writ appeal stating "we find no merit and dismissed". Hence, appellants have come up with this appeal by special leave.

3. Mr. K.N. Rawal, learned Additional Solicitor General, contended that respondent had no right - legal or otherwise - to insist that he should be detailed for the Orientation Course. We wanted to know from the judgment, rendered by

the learned Single Judge as to the discussion and finding regarding the said legal right, the enforcement for which the respondent could have approached the High Court. We did not find any discussion of that sort in the said judgment. At least that point should have been specifically considered and a finding should have been arrived at by the Division Bench when the order of the Single Judge was challenged in the Letters Patent Appeal. Though both sides tried to argue their respective points of view to establish that there was a legal or that there was no such legal right, we deem it fit that the Division Bench of the High Court should embark on that question and arrive at a finding.

4. We, therefore, set aside the impugned judgment of the Division Bench and send the case back to the High Court for disposal of the Letters Patent Appeal afresh in accordance with law and in the light of the above observations. Needless to say, that the High Court will give a priority to the said LPA for hearing and disposal. Learned Additional Solicitor General made a plea for keeping the order of the learned Single Judge in abeyance. Liberty is given for moving the High Court for obtaining any such order.

5. Appeal is disposed of accordingly.