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KARUNA LAHIRI

v.

GAUTAM KUMAR CHAKRABORTY AND ORS.

DECEMBER 7, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Service Law :

C *State of Orissa—Law Department—Ad hoc appointments—Regularisation of—Rules providing selection of regularly appointed candidates to be confirmed by State Public Service Commission—State Administrative Tribunal commenting upon unsatisfactory way of selections made by State Law Department—Held, Tribunal rightly pointed out unsatisfactory way of functioning of State Law Department—Claims to be considered only according to rules de hors any adverse remark.*

D

The appellant and respondent No. 1 were initially appointed on ad hoc basis. Later the Committee constituted for their selection on regular basis placed respondent No. 1 at serial No. 1 and the appellant at serial No. 3. The appointments were subject to confirmation by the State Public Service Commission. The Minister, instead of sending the names to the State Public Service Commission for confirmation, as required under the rules, recommended for appointment of the appellant Respondent No. 1 approached the Tribunal and ultimately the Public Service Commission selected the appellant as number 3 and respondent No. 1 as number 4. Consequently the Tribunal disposed of the application of respondent No. 1. Aggrieved, the appellant filed the present appeal.

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The appeal was not argued on merits. However, the appellant apprehended that the remarks made by the Tribunal might be construed to be adverse to her, affecting her future prospects.

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Dismissing the appeal, this Court

HELD : There is no justification for an apprehension that the remarks made by the Tribunal would be construed to be adverse to the appellant for her future prospects. The Tribunal had quite rightly pointed out the unsatisfactory way of functioning of the Law Department of the

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State of Orissa. The claims would be considered only according to rules *de hors* any adverse remark. [324-B] A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 11966 of 1995.

From the Judgment and Order dated 27.8.93 of the Orissa administrative Tribunal in O.A. No. 631 of 1992. B

Raj Kumar Mehta and N.K. Sharma for the Appellant.

A.K. Panda and P.N. Misra for the Respondents. C

The following Order of the Court was delivered :

Leave granted.

It is rather unfortunate that the Law Department of the Orissa State is functioning in unsatisfactory way. It is reflected in this case also. This is one of the three cases which have come up before this Court relating to service matter. Other Departments, look for guidance from Law Department. Instead of becoming a model functionary, its officers indulge in litigating their own cases because of their back-door entry into service. D

The appellant claims to have been appointed on ad hoc basis by proceedings dated October 26, 1990. Gautam Kumar Chakraborty, the first respondent and the appellant had joined the Department on January 27, 1986. The Committee constituted for their selection, found the first respondent to be number one and the appellant as number 3 in the list. Admittedly, regular appointments are subject to confirmation by the Orissa Public Service Commission. Instead of sending the names to the Commission for consideration, the Minister recommended for appointment of the appellant. The first respondent naturally had approached the Tribunal staking his claim for confirmation. The Tribunal directed the Government to refer to the matter, in terms of the Rules, to the Commission which after considering the respective merits of all the candidates had selected D. Mullick as number 1, B.N. Sahoo as number 2, appellant as number 3 and Gautam Kumar Chakraborty as number 4 and recommended for appointment. Consequently, the application of the respondent was disposed of. Feeling aggrieved by the order of the Tribunal passed on August 27, 1993 in O.A. No. 631 of 1992, this appeal by special leave has been filed. In the E F G H

A face of these facts, there is no chance for the appellant to argue on merits.

Shri N.K. Sharma, the learned counsel appearing for the appellant, realising the insurmountable difficulty in the way, contended that the remarks made by the Tribunal would be construed to be adverse to the appellant for her future prospects. We find that there is no justification for such an apprehension. The Tribunal quite rightly had pointed out the sad way in which the Law Department works. The claims would be considered only according to rules *de hors* any adverse remark.

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We do not find it a fit case for interference. The appeal is accordingly dismissed. No costs.

C

R.P.

Appeal dismissed.