

I.C.A.R. AND ORS.

v.

ASIT BARAN CHAUDHURI AND ANR.

MARCH 13, 2007

[DR. AR. LAKSHMANAN AND ALTAMAS KABIR, JJ.]

Constitution of India, 1950—Art. 226—Writ petition by respondent seeking direction to the Authorities to consider his claim—High Court granting liberty to respondent to make representation before authorities and also directing authorities to consider the cases of employees junior to respondent—Respondent already made representation—On appeal, authorities directed to dispose of representation in accordance with statutory rules—Directions to consider the case of employees junior to respondent is not justified and is set aside.

Respondent filed writ petition seeking directions to the appellant-authorities to consider his claim for benefit of Agricultural Research Service in Scientist 'S' Grade. High Court allowed the writ petition and further observed that while considering, the authority concerned would also consider the cases of employees junior to the respondent. For the said purpose, the respondent was granted liberty to make a representation before appropriate Authority along with a copy of the order of the High Court and the said Authority was to decide the matter within two months from submission of the representation. No one had appeared on behalf of the appellant-Authorities before the High Court. Subsequently, a Review Petition was filed by the appellant which was also dismissed by the High Court. Hence the present appeal.

Disposing of the appeal, the Court

HELD: 1. Pursuant to the direction given by the High Court, the respondent has already made a representation to the Secretary, Department of Agricultural Research and Education, Ministry of Agriculture-Cum-The Director General, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi and other authorities. Now that the representation was made pursuant to the directions given by the High Court, the appellants are directed

A to dispose of the representation within two weeks in accordance with the statutory rules and communicate the said order to the respondent immediately after the disposal of the said representation. While disposing of the Writ Petition, the High Court has also directed the concerned authorities to consider the cases of the employees junior to the respondent. The said direction is not justified and uncalled for and, therefore, set aside and the **B** appellant-authorities are directed to consider the representation made by the respondent alone in accordance with law. [Paras 5, 6]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1329 of 2007.

C From the Judgment and Order dated 09.09.2004 and 10.5.2005 of the High Court of Calcutta at Calcutta in W.P.C.T. No. 864 of 2002 and R.V.W. No. 4355 of 2004 respectively.

Indu Malhotra and Sunieta Ojha for the Appellants.

D Jaideep Gupta, Sanjiv Sen, Parta Sil, Sanjeev Saxena, Ghanshyam Joshi and Abhishek Sarkar for the Respondents.

The Judgment of the Court was delivered by

DR. AR. LAKSHMANAN, J. 1. Leave granted.

E 2. Heard Ms.Indu Malhotra, learned counsel for the appellants and Mr.Jaideep Gupta, learned senior counsel for the respondents.

3. We have perused the order impugned in this appeal.

F 4. The High Court while allowing the Writ Petition filed by the respondent herein directed the appellant-authorities to consider the claim of the respondent for benefit of Agricultural Research Service in scientist 'S' Grade with effect from the date he became entitled. The High Court has also further observed that while considering aforesaid, the Authority concerned will also consider the cases of the employees junior to the respondent herein as mentioned in **G** paragraph 37 of the Writ Petition. For the said purpose, the respondent herein was granted liberty to make a representation before appropriate Authority along with a copy of the order of the High Court and in such cases, the said Authority will decide the matter within two months from submission of the representation. It is pertinent to notice that no one appeared on behalf of the appellant-Authorities before the High Court. The High Court considered **H** the matter in the absence of any argument being advanced on behalf of the

appellants. Subsequently, a Review Petition was filed by the appellant herein which was also dismissed by the High Court. Aggrieved by the above two orders, the above Civil Appeal has been filed. A

5. It is now stated by the learned senior counsel for the respondent herein that pursuant to the direction given by the High Court, the respondent has already made a representation on 16.12.2004 to the Secretary, Department of Agricultural Research and Education, Ministry of Agriculture-Cum-The Director General, Indian Council of Agricultural Research, Krishi Bhavan, New Delhi and other authorities. Now that the representation was made pursuant to the directions given by the High Court, we direct the appellants herein to dispose of the representation within two weeks from today in accordance with the statutory rules and communicate the said order to the respondent herein immediately after the disposal of the said representation. B C

6. While disposing of the Writ Petition, the High Court has also directed the concerned authorities to consider the cases of the employees junior to the respondent herein as mentioned in paragraph 37 of the Writ Petition. The said direction, in our opinion, is not justified and uncalled for. We, therefore, set aside that direction and direct the appellant-authorities to consider the representation made by the respondent herein alone in accordance with law and as indicated above. D

7. The appeal stands disposed of accordingly. E

8. No costs.

D.G.

Appeal disposed of.