

A STATE OF RAJASTHAN & ANR.
v.
MILAP CHAND JAIN & ANR. ETC.
(Special Leave Petition (C) Nos.20363-20368 of 2013)

B MAY 1, 2013
[GYAN SUDHA MISRA AND J. CHELAMESWAR, JJ.]

C *Constitution of India, 1950 – Article 136 – SLPs filed by
petitioner-State challenging the same order which was the
subject matter of challenge in previous SLPs – Held: A fresh
batch of SLPs against the impugned judgment and order
against which SLPs were earlier dismissed, cannot be
entertained by a coordinate Bench unless the coordinate
Bench were inclined to take a different view and were to refer
D the matter to a larger Bench – On facts, although the question
of law was allowed to be kept open in the earlier matter, no
discriminatory treatment should be meted out to another set
of teachers who were affected by one and the same order of
the State of Rajasthan, wherein the order of the State was set
E aside by the High Court and one batch of special leave
petitions against the same as also Review were dismissed –
The implication of the observation in regard to the fact that
the question of law was allowed to be kept open was meant to
be urged in a matter arising out of a subsequent event in
F which a similar question arose – Insofar as instant SLPs are
concerned, that is not the situation as the SLPs have been
filed by the petitioner-State of Rajasthan against the same
impugned order, which was the subject matter of challenge
in the earlier appeals – Instant SLPs fit to be dismissed
solely on the ground of parity –Practice and Procedure.*

G CIVIL APPELLATE JURISDICTION : SLP (Civil) Nos.
20363-20368 of 2013.

H From the Judgment & Order dated 29.11.2011 of the High
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STATE OF RAJASTHAN & ANR. v. MILAP CHAND 473
JAIN & ANR. ETC.

Court of Judicature for Rajasthan Jaipur bench at Jaipur in D.B. Civil Special Appeal (Writ) Nos. 29, 105, 154, 277, 564 & 673 of 2005.

WITH

SLP Nos. 20386-20390, 20373-20377, 20379-20383, 20378, 20812, 14592 of 2013 and SLP (Civil) No. C.C. No. 9440 of 2013 and SLP (C) No. 34866 of 2012.

Dr. Manish Singhvi, AAG (for Irshad Ahmad), Manoj Swarup, Lalita Kohli (for Manoj Swarup & Co.) Pragati Neekhra for the Petitioners.

Ashok Gaur, S.P. Sharma, Ranjit Kumar, Abhishek Gupta, Ajat Shatru Mina, Sumit Attri, Kiran Suri, S.J. Amith for the Respondents.

The following order of the Court was delivered by

ORDER

SLP(C)..C.C.NOS.7465-7470/2012,8287-8291/2012, 8403-8407/2012, 8464-8468/2012, 19503/2012, SLP(C) No.34866/2012, C.C.No.9200/2013, SLP(C) No.14952/2013

1. Delay condoned.

2. This batch of special leave petitions are directed against the judgment and order of the High Court of Rajasthan dated 29.11.2011 by which the appeals filed by the petitioner-State of Rajasthan were rejected by the Division Bench observing therein that the Apex Court has already dismissed the appeal of the State against the impugned judgment and order dated 10.3.2011. This order was passed by this Court in a batch of petitions (C.A. Nos.469 of 2007 and C.A. No.470 of 2007)

A Thereafter, the petitioner-State filed review petitions against the order dated 10.3.2011 passed in the aforesaid petitions in which they also raised the grounds on the merit of the matter but the review petitions were also dismissed.

B 3. Thereafter, instant batch of special leave petitions were filed by the petitioner-State challenging the same order which was the subject matter of challenge in the previous special leave petitions. But it is obvious that a fresh batch of special leave petitions against the impugned judgment and order against which special leave petitions were dismissed, cannot be entertained by a coordinate Bench unless the coordinate Bench were inclined to take a different view and were to refer the matter to a larger Bench.

C 4. Having heard the counsel for the parties, we are of the view that although the question of law was allowed to be kept open in the earlier matter, no discriminatory treatment should be meted out to another set of teachers who were affected by one and the same order of the State of Rajasthan, wherein the order of the State was set aside by the High Court and one batch of special leave petitions against the same as also Review were dismissed. The implication of the observation in regard to the fact that the question of law was allowed to be kept open obviously was meant to be urged in a matter arising out of a subsequent event in which a similar question arose.

F 5. Insofar as these special leave petitions are concerned, that is not the situation as the special leave petitions have been filed by the petitioner-State of Rajasthan against the same impugned order, which was the subject matter of challenge in the earlier appeals, as already stated hereinabove. We are further conscious of the fact that if a view different from the earlier order were to be taken by this Court for any reason whatsoever, appropriate reasons could be assigned in this regard. But if a similar view is taken, then dismissing one set of the batch of matters but allowing the other set, is bound to result into unjust discrimination to the same class of persons.

Apart from the fact that, we see no ground to differ from the view taken earlier, we have been informed that the financial implication of the payment towards Carrier Advancement Scheme is borne by the University Grants Commission to the extent of 80% and only 20% is to be borne by the petitioner-State. If the petitioner-State has accepted the grant to the extent of 80% from the University Grants Commission and the State has to add 20%, it is not open for the State to urge that it will not bear the 20% financial liability specially when its plea already stands rejected. If the petitioner-State at all had any reason to deny this claim in spite of the entitlement of the respondent-teachers, the State in the first place should not have accepted 80% grant from the University Grants Commission. These observations have been recorded herein merely in the interest of fairness and justice to the parties as these special leave petitions are fit to be dismissed solely on the ground of parity as the High Court had also refused to entertain the writ appeals on the ground of parity which clearly implies that any other view different from the one taken earlier is bound to result into unjust and discriminatory treatment which we cannot permit to prevail.

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6. The special leave petitions are, thus, devoid of merit and are, therefore, dismissed.

S.L.P.(C)...CC NO. 9440 of 2013

7. The counsel for the petitioner, Mr. Manoj Swarup, submitted that this petition is not maintainable as the petitioner had not moved the High Court before the Division Bench against the judgment and order of the Single Bench. He may, therefore, be permitted to withdraw this special leave petition.

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8. In view of his request, the special leave petition is dismissed as withdrawn.

B.B.B.

SLP dismissed.