

SECRETARY, TAMILNADU PUBLIC SERVICE
COMMISSION

v.

A.B. NATARAJAN & ORS. ETC.

(Interlocutory Application Nos. 15-18 of 2014)

in

(Civil Appeal Nos. 5877-5878 of 2014)

SEPTEMBER 15, 2016

[ANIL R. DAVE AND DIPAK MISRA, JJ.]

Constitution of India: Article 142 – Exercise of power – Writ petition alleging certain irregularities committed in examining the answer books submitted by candidates – Challenge to the appointments of selected candidates – Termination of services of selected candidates – Supreme Court upholding the termination order – Review Petition – Held: Records showed that sufficient time was not given to the selected candidates to represent their case before High Court – The candidates so selected had been into service for several years, therefore, in the interest of administration and as well as in the interest of candidates, candidates are allowed to continue in service – Service law – Termination – Review.

Partly allowing the review petitions and disposing of the interlocutory applications, the Court

HELD: The notices were issued by the High Court to the selected candidates, which were made returnable on 2nd March, 2011. The matter was finally decided on 4th March, 2011. This showed that sufficient time was not given to the selected candidates to represent their cases before the High Court. In the interest of administration as well as in the interest of the candidates, who have already passed the examination held by Tamil Nadu Public Service Commission and have been appointed by the State of Tamil Nadu in State services before several years, in exercise of powers under Article 142 of the Constitution of India, the candidates who have been working in different services of Tamil Nadu State are allowed to continue in service,

A notwithstanding any order passed by the High Court and confirmed by this Court. This course is adopted mainly for the reason that the selected candidates did not get sufficient opportunity to represent their case before the High Court and also the mistakes, if any, committed by the selected candidates have very often been ignored. Moreover, in any case, the original petitioners are not likely to receive any benefit because in any case they had failed at the examination held by the Public Service Commission and therefore, question of giving any appointment to them at this stage does not arise. [Paras 7,8, 9][225-B-H]

C CIVIL APPELLATE JURISDICTION: I.A. Nos. 15-18 of 2014 in Civil Appeal Nos. 5877-5878 of 2014

WITH

I.A. NO.3 in C.A. No. 5879/2014 & R.P.(C) NO.2624/2014 IN C.A. No.5879/2014

D I.A. Nos.23-24 in C.A. No. 5880-5881/2014
I.A. Nos.41-42 in C.A. No. 5882-5883/2014
I.A. No.3 in C.A. No. 5884/2014 & R.P.(c) No.2119/2014 in CA. No.5884/2014
R.P.(C) Nos.2025-2026/2014 in C.A. Nos.5877-5878/2014
E C.P.(C) D 31357/2014 IN I.A. Nos.15-16 in C.A. Nos. 5882-5883/2014

C.P.(C) D 31358/2014 IN I.A. No.24 in C.A. Nos. 5880-5881/2014

R.P.(C) Nos.2628-2629/2014 in C.A. Nos.5882-5883/2014

R.P.(C) Nos.210-211/2015 in C.A. Nos.5880-5881/2014

F R.P.(C) Nos.201-202/2015 in C.A. Nos.5882-5883/2014 .

From the Judgment and Order dated 04.03.2011 of the High Court of Judicature at Madras in Writ Appeal Nos. 1063 and 1287 of 2009.

G Mukul Rohtagi, AG, Subramonium Prasad, Sr.Adv. (AAG), Shyam Divan, K. Parasaran, A. K. Ganguli, P. S. Patwalia, Harin P. Raval, Sr. Advs., M. Yogesh Kanna, Niraimati, V. Balachandran, R. Thirumalai, Ashok K. Mahajan, V. G. Pragasam, Prabu Ramasubramanian, Jayanth Muth Raj, Ms. Malvika J., Sureshan P., Balaji Srinivasan, Ms. Srishti Govil, B. Balaji, R. Rakesh Sharma, Ms. R. Shase, Anand Varma, Ramendra Mohan Patnaik, Ms. Divya Anand, Nipun Saxena, Prashant Bhushan, Pranav Sachdeva, S. Mutu Krishnan, R. V. Kameshwaran Ayyar,

H

G. Ananda Selvam, Mayil Samy K., Ram Sankar (For R.K. Adsure, Adv.) N. Subramaniyan, Reegan S. Bal, Jogy Scaria, Subrata Sas, Varinder Kumar Sharma, Subhasish Bhowmick, B. Ramana Murthy, C.K. Sasi, Naresh Kumar, Ms. Geetha Kovilan, Ms. T. Anamika, S. Srinivasan, Advs. for the appearing parties. A

The Judgment of the Court was delivered by B

ANIL R. DAVE, J. 1. These review petitions and applications have been filed by Tamil Nadu Public Service Commission and some of the employees of the State of Tamil Nadu, who had been appointed in Tamil Nadu State Services, but by virtue of the judgment dated 30th June, 2014 delivered by this Court in C.A.Nos.5877-5878/2014, confirming the judgment delivered by the High Court of Judicature at Madras in Writ Appeal Nos.1063 and 1287 of 2009 dated 4th March, 2011, their services are to be terminated. C

2. The case on hand has a chequered history, which has been narrated in the judgment dated 30th June, 2014 delivered by this Court in C.A.Nos.5877-5878/2014, which is sought to be reviewed and therefore, we do not narrate the facts once again. D

3. Suffice it is to state that an examination was held by Tamil Nadu Public Service Commission for selecting candidates for certain Tamil Nadu State services and it was alleged that some irregularities had been committed in examining the answer books submitted by the candidates. In the circumstances, a petition was filed in the High Court of Madras challenging appointments of the candidates who had been finally selected. The said petition had been rejected by the learned Single Judge and the appeal filed against the order of rejection had been allowed, whereby services of some of the selected candidates had to be terminated. The said judgment of the Division Bench was confirmed by this Court by virtue of the judgment, which is sought to be reviewed by this Court. E F

4. The learned counsel appearing for Tamil Nadu Public Service Commission, State of Tamil Nadu and the selected candidates submitted that the judgment is required to be reviewed for the reason that the selected candidates did not get due opportunity before the High Court to represent their case and the State of Tamil Nadu was not a party to the original litigation, though it ought to have been joined because the candidates who were admitted to the State services, whose services H

A were sought to be terminated, had been appointed by the State of Tamil Nadu. It is also case of the applicants praying for review of the judgment that certain methods, which had been adopted by the High Court while coming to the final conclusion arrived at, by virtue of the judgment delivered by the Division Bench, were not proper and therefore, the selection made by Tamil Nadu Public Service Commission should not have been set aside, especially when all the candidates who had been selected by Tamil Nadu Public Service Commission and who had been appointed to different State services by the State of Tamil Nadu were in service for more than 7-8 years with due efficiency and their effectiveness as officers was never questioned even by their superiors or by the State of Tamil Nadu. It was also submitted that grave injustice would be caused to those officers working for several years as their services will be terminated and they will not get any chance to get any employment elsewhere as they have already crossed the age limit for applying for any other government post by virtue of afflux of time and that too for no fault on their part.

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5. On the other hand, the learned counsel appearing for the original petitioners before the High Court submitted that the judgment sought to be reviewed is just and proper and therefore, there is no reason to disturb the said judgment, especially in view of the fact that the review applications had been filed after a long time and it would not be in the interest of society to continue such officers, who had been improperly or irregularly selected. According to the learned counsel, a message must go to the society that no irregularity committed while examining the answer books can be tolerated

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6. Several submissions were made by the learned counsel appearing for the original petitioners before the High Court with regard to use of colour pencils, pens etc. by the candidates while answering the question papers. Different views were expressed by different counsel even at the stage when the matter was pending before the High Court, when the High Court had appointed court officers to examine the answer books. Different views were expressed by different persons and even different views were expressed when the answer books had been examined at the instance of this Court by independent examiners of Union Public Service Commission. Be that as it may, at this stage, when the candidates who were appointed and who have been working as State Officers for more than 10 years or so and when the examiners,

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who have rechecked the answer books, have expressed little different views and in view of the fact that the selected candidates did not get any opportunity to represent their cases before the High Court as very little time was given to them to appear before the High Court, it would be just and proper to review the judgment. A

7. It is not in dispute that notices had been issued by the High Court to the selected candidates, which were made returnable on 2nd March, 2011 and the matter had been finally decided on 4th March, 2011. It is thus clear that sufficient time was not given to the selected candidates to represent their cases before the High Court and the said fact has been now brought to the notice of this Court. Thus, the submission made on behalf of the selected candidates are found to be correct and in fact they did not get adequate opportunity to represent their case effectively before the learned Single Judge. B C

8. Having overall view of the matter, in the interest of administration as well as in the interest of the candidates, who have already passed the examination held by Tamil Nadu Public Service Commission and have been appointed by the State of Tamil Nadu in State services before several years, in exercise of powers under Article 142 of the Constitution of India, we direct that the candidates who have been working in different services of Tamil Nadu State shall be continued in service, notwithstanding any order passed by the Division Bench of Madras High Court and confirmed by this Court. D E

9. We have adopted this course mainly for the reason that the selected candidates did not get sufficient opportunity to represent their case before the High Court, as stated hereinabove and upon hearing the concerned counsel and upon perusal of the record and report received from Tamil Nadu Public Service Commission as well as Union Public Service Commission, we also find that the mistakes, if any, committed by the candidates who have now been selected, were very often ignored and therefore, it would not be just and proper to take such a harsh view in the matter so as to render several reasonably good officers working for several years jobless. Moreover, in any case, the original petitioners who had filed the petition, are not likely to have any benefit because in any case they had failed at the examination held by Tamil Nadu Public Service Commission and therefore, there is no question of giving any appointment to them at this stage. F G

