

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 15034 OF 2017

MAMTA ROHIT

Appellant(s)

VERSUS

DR. PRAFULLA RANJAN & ORS.

Respondent(s)

WITH

DIARY NO. 4994 OF 2018

J U D G M E N T

KURIAN, J.

DIARY NO. 4994 OF 2018

1. This petition has been filed with a delay of 240 days and there is no satisfactory explanation for the gross delay in filing the petition.

2. The Special Leave Petition is, accordingly, dismissed on the ground of delay.

CIVIL APPEAL NO. 15034 OF 2017

1. Heard Mr. Ajit Kumar Sinha, learned senior counsel appearing for the appellant and Mr. C. U. Singh, learned senior counsel appearing for Respondent No. 3 and Mrs. V. Mohana, learned senior counsel appearing for the Union of India and Mr. Anand Nandan, learned counsel appearing for Respondent Nos. 1 and 2.

2. The issue in this appeal pertains to the appointment to the post of Chief General Manager under the Pension Fund Regulatory and Development Authority created in the year 2003. In 2011, applications were invited for appointment to the two posts of Chief General Manager. The appellant was one of the applicants. According to the third respondent, namely, the appointing authority, the appellant did not satisfy the qualification. It is also pointed out by the respondents that since the appellant did not satisfy the qualification, she was ineligible even for putting an application. The appointing authority relying on one condition in the advertisement regarding relaxation of any criteria/condition in deserving cases, it appears, relaxed the condition on qualification, which according to the appellant, was done across the board, though it is pointed out by the learned senior counsel appearing for the respondents that it is not true to facts.

3. There is no dispute that the Board of Directors of the appointing authority consisted of a nominee of the Government of India, among others. On the basis of the written test and the interview, the appellant was offered appointment on 31.05.2011 and the

appellant joined duty on 01.07.2011. For the purpose of taking up the appointment under the third respondent, the appellant was required to resign from the post she was holding in IDBI Bank as Deputy General Manager. After completing the period of probation, the appellant was confirmed in service. Towards the end of the year 2013, some of the candidates who competed along with the appellant, but were unsuccessful, approached the Central Administrative Tribunal (in short, "CAT") challenging the appointment of the appellant. While the matter was pending before the CAT, the appellant was issued a Show Cause Notice on 21.02.2014 pursuant to a letter dated 17.02.2014 from the Ministry of Finance. Not being satisfied with the reply, the appointment of the appellant was cancelled on 13.03.2014.

4. The appellant challenged the same before the CAT in Allahabad. On the strength of an interim order, the appellant continued in service till the impugned order dated 15.03.2017 was passed by the High Court of Delhi. It is submitted that the original application is still pending. In the meanwhile, CAT, Delhi, dismissed the applications filed by Respondent Nos. 1 and 2 herein and allowed the application filed by another person, whose service was also terminated along with the appellant. Respondent Nos. 1 and 2

challenged the said order dated 29.06.2015 before the High Court. As per the impugned Judgment, the same was set aside and thus the appellant is before this Court.

5. It is significant to note that though the High Court set aside the appointment at the instance of Respondent Nos. 1 and 2, no relief was granted to them by the High Court. The High Court, in our view, has rightly held on the question of law that there cannot be a deemed relaxation since on the very concept of relaxation, it is to be made on the basis of proper application of mind as to whether it was a case fit for relaxation as a case deserving on the requirements of the appointment. However, the fact remains that the appellant was made to resign from the post she was holding in IDBI as Deputy General Manager so as to take up the appointment offered to her by the third respondent, she was found suitable for the post and hence, was confirmed in service. Two annual increments were sanctioned and, thereafter only, action has been taken to terminate her from service on the ground that she did not possess the required qualification.

6. It is significant to note that there is no case for any of the respondents that the appellant, in any

way, misled anybody for the purpose of the appointment. There is no case for the other contesting respondents that the appellant had not disclosed her actual qualification. Having regard to the experience and the requirements of the post, it appears, the appointing authority, at the relevant time, thought it fit to appoint her in service, after requiring her to resign from the post she was holding elsewhere. Now, the appellant is neither here nor there.

7. In the above peculiar facts and circumstances of the case, we are of the view that this is an eminently fit case for doing complete justice between the parties. Though we agree on the question of law regarding relaxation of qualification as raised by the learned senior counsel appearing for Respondent Nos. 3 and 4 and the learned counsel appearing for the contesting respondents, justice needs to be done to the appellant.

8. Therefore, without treating it as a precedent and while agreeing with the question of law as raised by the respondents, we set aside the order dated 13.03.2014 cancelling the appointment of the appellant and the consequence of termination.

9. The third respondent is directed to reinstate the appellant in service forthwith and for all purposes, she shall be deemed to be reinstated in service with effect from 01.10.2018. Her services from the original date of appointment till the date of reinstatement on 01.10.2018 shall be deemed to be continuous for all purposes; except for actual backwages.

10. We also make it clear that since this Judgment is passed in the peculiar facts and circumstances of the case, the benefit which we have granted above is confined only to the appellant in this case. In case other vacancies are still available, it will be open to Respondent Nos. 1 and 2 to make appropriate representation before the third respondent, in which case, the same will be considered in accordance with law.

11. In view of the above, the appeal is disposed of.

.....J.
[KURIAN JOSEPH]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
September 26, 2018.