



MANU/SCOR/8501/2013

IN THE SUPREME COURT OF INDIA

PETITION (CIVIL) NO(s). 120 OF 2012

Date of Order: 08.02.2013

This Petition was called on for hearing today.

Appellant: **RAJIV GARG**
Vs.
Respondent: **UNION OF INDIA & ANR.**

(With appln(s) for directions)

Hon'ble Judges:

HON'BLE MR. JUSTICE G.S. SINGHVI, HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA, Amicus Curiae Mr. P.P. Rao, Sr. Adv., JJ.

Counsels:

For Appellant/Petitioner/Plaintiff:
Mr. Annam D.N. Rao, Adv.,

For Respondents/Defendant:

Mr. Paras Kuhad, ASG, Mr. Abhinav Mukherji, Adv., Ms. Mrinmayee Sahu, Adv., Mr. B.V. Balram Das, Adv.,

UPON hearing counsel the Court made the following

ORDER

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On 13.04.2012, notice in this petition was issued by recording the following order: "Taken on board.

The question which would require consideration in this petition filed in public interest is whether different conditions of engagement/service could be prescribed for the Chairperson/President of different Tribunals/Commissions constituted under different Acts of Parliament.

Issue notice, returnable in 7 days. Dasti, in addition, is permitted.

Learned Attorney General is requested to appear and assist the Court. A copy of the writ petition along with this order be delivered in the office of the Attorney General.

Keeping in view the importance of the question raised in the petition, we request Shri P.P.Rao, learned senior counsel of this Court to assist us as an amicus. Shri Rao, who is present in the Court, has graciously agreed to assist the Court.

List the case on 20.04.2012."

On the next date of hearing, i.e.,20.04.2012, the learned Attorney General made a request for adjournment by saying that the questions raised in the writ petition need to be deliberated at the highest level. His request was accepted and the case was adjourned for four months. That order reads as follows: "Learned Attorney General requests for an adjournment by saying that the question raised in the petition needs to be deliberated at the highest level of the Government.

The request of the learned Attorney General is accepted and the case is adjourned to 27.08.2012.

The counter affidavit may be filed on behalf of the respondents within 12 weeks. A copy of the counter affidavit be made available to the assisting counsel of Shri P.P.Rao, learned amicus curiae apart from counsel for the petitioner."

The case was again adjourned on 27.08.2012 and 19.09.2012 at the request of the learned Solicitor General and the learned Attorney General respectively.

On 26.09.2012, the arguments were heard for some time and the case was adjourned because the learned Attorney General assured the Court that he will personally get in touch with the concerned Ministries for laying down uniform conditions of service including the age of retirement, functional facilities and residential accommodation for Chairperson and Members of different Tribunals.

When the case was taken up on 04.12.2012, the learned Additional Solicitor General made a request for adjournment to enable the government to take a firm policy decision at the highest level on the issues raised in the writ petition. That order reads as follows: "The learned Additional Solicitor General requests for eight weeks' time to enable the government to take a firm policy decision at the highest level

on the issues raised in the writ petition including the one relating to the tenure and age of the Chairperson/Members of various Tribunals which were required to be manned by the sitting/former Judges of this Court or the Chief Justices and/or Judges of the High Court and their conditions of service/work and facilities of accommodation etc.

The request of the learned Additional Solicitor General is accepted and the case is adjourned.

For further consideration, the case be listed on 05.02.2013.

It is made clear that if by the next date of hearing an appropriate decision is not taken the Court will consider the desirability of staying appointments to various Tribunals in the country in which the sitting or former Judges of this Court or sitting and former Chief Justices and Judges of the High Court are required to be appointed as Chairperson/Members."

Due to non constitution of the Bench on 05.02.2013, the case could not be taken up.

Today, the learned Additional Solicitor General placed before the Court an affidavit of Shri Y.M. Pande, Deputy Secretary, Ministry of Law and Justice which is accompanied by some documents including the report of the Inter-Ministerial Group on Central Tribunal Division.

We have gone through the affidavit of Shri Pande and the annexed documents and are of the view that the respondents have failed to fulfill the commitment made before the Court through the learned Attorney General and the learned Solicitor General because the matter does not appear to have been placed at the highest level of the government even once.

The chart produced by the learned Additional Solicitor General on the last date of hearing reveals various discrepancies in the tenure of the Chairperson/Chairman and Presidents of various Tribunals and judicial and administrative bodies. The chart also reveals difference in the other conditions of their service.

Though, the learned Additional Solicitor General made strenuous effort to convince us that the respondents are making earnest efforts to bring about the uniformity in the tenure of the heads of various bodies and their members as well as their conditions of service, the affidavit filed on behalf of the respondents does not support the statement of the learned Additional Solicitor General.

As on date, a period of almost ten months has elapsed since issuance of notice.

In the facts and circumstances of the case, we direct that within four weeks from today, the respondents shall fulfill the commitment made before the Court on 20.04.2012 through the learned Attorney General and 04.12.2012 through the learned Additional Solicitor General else the Court may have to consider the desirability of suo motu issuing directions in regarding to the issues raised by the petitioner.

Put up on 15.03.2013.

While adjourning the case, we would request the learned Attorney General to make it convenient to remain present in addition to the learned Additional Solicitor General for assisting the Court.

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