

UNREPORTED

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 154/2008, 155/2008 and 156/2008

1. UOI & ORS. Appellants

Through: Mr.Mohan Parasharan, Addl.Solicitor General
with Mr.D.L.Chidananda and Ms.Geetanjali
Mohan, Advocates.

versus

MADAN SINGH & ORS. Respondents

Through: Mr.M.R.Shamshad, Advocate

2. UOI & ORS. Appellants

Through: Mr.Mohan Parasharan, Addl.Solicitor General
with Mr.D.L.Chidananda and Ms.Geetanjali
Mohan, Advocates.

versus

ROSHAN LAL & ORS. Respondents

Through: Mr.M.R.Shamshad, Advocate

3. UOI & ORS. Appellants

Through: Mr.Mohan Parasharan, Addl.Solicitor General
with Mr.D.L.Chidananda and Ms.Geetanjali
Mohan, Advocates.
Mr.Saurav Aggarwal and Mr.Arjun Krishnan,
Advocates for Appellant No.4.

versus

LEKH RAJ & ORS. Respondents

Through: Mr.M.R.Shamshad, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

% **27.03.2008**

: **DR. MUKUNDAKAM SHARMA, CJ. (ORAL)**

1. All these appeals involve identical issues and, therefore, we propose to dispose

of all these appeals by this common judgment and order.

2. The appellants are aggrieved by the order dated 7th March, 2008 passed by the learned Single Judge in which certain directions have been issued. As it appears from the writ petitions and also from the impugned order passed in all the writ petitions, an order was passed by the learned Single Judge on 4th February, 2008 directing and permitting the respondents to appear before the Medical Board for assessment of their medical fitness for the purpose of regularization. A dispute is subsisting between the parties as to whether the respondents could be regularized as against Group-D posts or Group C posts. According to the respondents, they are entitled to be regularized as against Group C posts, whereas the contention of the appellants is that they are not entitled to be regularized as against Group C posts, but are entitled to be regularized only against Group D posts. The said dispute would have to be decided by the learned Single Judge after hearing the learned counsel for the parties when the writ petitions are finally heard. However, at this stage, the only order passed by the learned Single Judge is that the medical suitability of all the respondents be also assessed for Group C posts along with their assessment for Group D posts. A classification is also made by the learned Single Judge while passing the aforesaid order that the respondents be medically examined for considering their suitability for regularization as against Category C posts without prejudice to the rights and contentions of the appellants that the respondents are only entitled for regularization for Group D posts. The said order appears to us to be a very innocuous order, for, we are of the considered opinion that the aforesaid order was passed by the learned Single Judge on

the basis of the concession made before him by the counsel for the appellant that the medical assessment of the respondents be done without going into the aspect of terms of regularization at that stage. Be that as it may, the said order and directions issued by the learned Single Judge appear to be totally innocuous for they do not intend to create any right in favour of the respondents to be regularized as against Group C posts. This is a dispute which will have to be adjudicated upon and decided while deciding the writ petitions.

3. Therefore, we are also reiterating that the aforesaid order would not, in any manner, create any right or equity in favour of the respondents, even if they are found to be medically suitable on their assessment for Category C posts to be absorbed or regularized as against Group C posts, and the same will have to be decided and abide by a final order to be passed by the learned Single Judge in the writ petitions.

4. At this stage, counsel for the appellants states that the aforesaid order passed by us would protect the interests of the appellants and, therefore, they may be permitted to withdraw this appeal. Permission is granted. The appeals are dismissed as withdrawn.

5. The writ petitions shall now be heard by the learned Single Judge as expeditiously as possible. It is also made clear that the aforesaid order which is passed by the learned Single Judge in these writ petitions shall be construed as directions only in the facts and circumstances of these three cases and would not, in any manner, be construed as a binding precedent in any other case.

6. Counsel appearing for the appellants states that now the dates for appearance

of the respondents before the Medical Board will have to be re-fixed as the dates earlier fixed are going to be expire shortly. We accordingly, re-fix the dates for appearance of the respondents before the Medical Board since the respondents are represented through their counsel. The respondents shall appear before the concerned Medical Board on 21st, 22nd and 23rd of April, 2008. It is also made clear that the medical assessment which is going to be made so far as the respondents are concerned for Group D posts, would not in any manner be treated as causing any prejudice to their rights and contentions in the main writ petitions.

7. With the aforesaid observations and directions, these appeals stand disposed of.

CHIEF JUSTICE

REVA KHETRAPAL, J

MARCH 27, 2008

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