

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT APPEAL No. 236 of 2017

JUDGMENT: (*Per VRS,J*)

Aggrieved by an order of cancellation of promotion, the 2nd respondent filed a writ petition and obtained an interim stay of such cancellation way back on 21.02.2013. Seeking to vacate the interim stay order, the 1st respondent-Corporation moved an application in W.V.M.P.No.1636 of 2013. Unfortunately, the vacate stay petition came up for hearing after three years, and the learned Judge, by an order dated 14.07.2016, refused to vacate the stay at this distance of time.

2. Aggrieved by the order of the learned Judge not vacating the stay, the appellants, who were third parties and who claim to be seniors to the 2nd respondent, have come up with the present writ appeal.

3. Heard Mr. K. Madhava Reddy, learned counsel for the appellants.

4. At the outset, we should point out that the normal rule is that when a person is in enjoyment of an interim stay for nearly four years, it would be better to have the main case disposed of, rather than interfering with the interim stay order. The appellants, who now

challenge the refusal of the learned single Judge to vacate the interim stay order, could have filed applications for impleading and vacating the interim stay order in 2013 itself. If they had done so, the enjoyment of the interim stay order by the 2nd respondent for four years cannot be put against them.

5. It is claimed by the learned counsel for the appellants that the appellants were not aware of the interim stay order. But, the proverb that ignorance is bliss, cannot actually be pleaded in service jurisprudence. In matters relating to seniority, persons, who were seniors, should always be vigilant. Therefore, we are of the considered view that at this distance of time, the interim stay order granted in favour of the 2nd respondent by the learned single Judge cannot be interfered with.

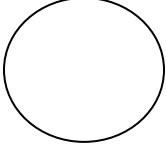
6. Hence, the Writ Appeal is dismissed. However, the writ petition may be listed for final disposal, within four (4) weeks, and we request the learned single Judge to take it up for disposal, since the issue lies in a very narrow compass.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

27th February, 2017
cbs



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