

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL Nos.369 and 372 of 2008

Date: 31.08.2017

W.A.No.369 of 2008 :

Between :

Union Public Service Commission,
Rep. by Under Secretary, Dholpur House,
Shahjahan Road, New Delhi and another.

... Appellants

And

Gautam Prasad Singh and another.

... Respondents

COUNSEL FOR APPELLANTS : Mr. B. Narasimha Sarma
Standing Counsel

COUNSEL FOR THE RESPONDENTS :
Mr. Paravastu Krishna for R.1

W.A.No.372 of 2008 :

Between :

Union of India, rep. by its Secretary,
Ministry of Home Affairs, New Delhi.

... Appellant

And

Gautam Prasad Singh and others

... Respondents

COUNSEL FOR APPELLANT : Mr. I. Koti Reddy
Standing Counsel

COUNSEL FOR THE RESPONDENTS :
Mr. Paravastu Krishna for R.1
Mr. B. Narasimha Sarma
SC for R.2 and 3

THE COURT MADE THE FOLLOWING:

COMMON JUDGMENT : (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

Both these Writ Appeals are filed against the order dated 04.03.2008 in W.P.No.17456 of 2007. Union Public Service Commission, represented by Under Secretary, New Delhi, filed W.A.No.369 of 2008, and Union of India, represented by its Secretary, Ministry of Home Affairs, New Delhi, filed W.A.No.372 of 2008.

2. The interesting question that arose before the learned single Judge was, whether respondent No.1, who was working as a Corporal in Indian Air Force, falls within the expression of 'Central Government Servant' in Clause 3(III) of Employment Notification issued by appellant No.1. The learned single Judge without confining the consideration to literal interpretation of the phrase "Central Government Servant", went into the purpose and object for which the Employment Notification was issued and held that, to exclude the category of personnel of Indian Air Force from the definition of 'Central Government Servant' would be irrational, arbitrary and unreasonable. Therefore, by interpretative process, the learned Judge has held that respondent No.1 falls within the expression of 'Central Government Servant' and consequently he is also entitled for relaxation of maximum upper age limit of 5 years as envisaged under Clause 3 (III)(b)(iii). Accordingly, the learned single Judge has allowed the writ petition directing the

appellants to consider respondent No.1 for selection by relaxing the upper age limit.

3. As noted hereinbefore, the Union of India as well as the Union Public Service Commission have filed these writ appeals. In both these writ appeals, interim suspension has been granted and the said order is in force as on today. The necessity to adjudicate on the correctness or otherwise of the order of the learned single Judge is obviated, as admittedly, the whole selection process has been completed long back and more than 11 years have elapsed after completion of the recruitment process. Unfortunately, respondent No.1 could not derive the benefit of the order of the learned single Judge due to the interim order granted in these writ appeals. Therefore, at this length of time, it is not appropriate to direct the appellants to consider the case of respondent No.1 for the post of Assistant Commandant in the Central Police Force.

4. In this view of the matter, the order dated 04.03.2008 of the learned single Judge is set aside. The Writ Appeals are accordingly allowed. As a sequel to the disposal of the writ appeals, WAMP.No.778 of 2008 in W.A.No.369 of 2008 and WAMP.No.781 of 2008 in W.A.No.372 of 2008 shall stand disposed of.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

31.08.2017.
Msr

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL Nos.369 and 372 of 2008



31.08.2017
Msr