



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1500 OF 2025

Union of India and ors.

... Petitioners

Versus

R. M. Sharma and ors.

.... Respondents

Adv. Anjali N. Helekar a/w Adv. Ashutosh Mishra, Adv. Anu C. Kaladharan, for the Petitioners.

Ms. Pooja Patil i/b. Ms. Varsha Sawant, for the Respondents.

CORAM : M.S.KARNIK AND
N.R.BORKAR, JJ.

DATE : 08th JULY 2025

PC. :

1. Heard learned counsel for the parties.
2. The challenge in this Petition is to the order dated 26th October 2023 passed by the Central Administrative Tribunal ("Tribunal", for short) whereby the Petitioners have been directed to release to the Respondents the financial benefits of the ante-dated in situ promotion in each grade under the Flexible Complementing Scheme ("FCS" for short) effective from the due dates as per the Office order No.24 of 2014 dated 25th February

2014 and to pay all the consequential benefits including re-fixation of pay, pension and arrears in accordance with the relevant rules within a period of three months from the date of receipt of a certified copy of the order.

3. Ms. Helekar, learned counsel for the Petitioners submitted that the Respondent No.1 was granted promotion to the post of Scientist-D with effect from 14th March 2008. Likewise, Respondent Nos.2 to 4 were granted promotion to the post of Scientist-C/D/E/F during the period from 2001 to 2009. It is submitted Respondent Nos.1 to 4 accepted the promotion and none of them had raised any grievance. It is submitted that thus the Original Application filed by the Respondent Nos.1 to 4 in the year 2013 for grant of ante-dated promotion was barred by limitation. It is submitted that even otherwise during the pendency of O.A. the Petitioner by office order dated 25th February 2014 granted ante-dated in-situ promotion to Respondent Nos.1 to 4 under FCS without any payment of arrears in terms of revised guidelines for promotion. It is submitted that the Tribunal has overlooked the submissions made by the Petitioners and erroneously proceeded to allow the Original Application applying

the decision of the Supreme Court in **Union of India and another vs. S. K. Murti**¹, which was Judgment in personam and not in rem.

4. Learned counsel for the Respondents on the other hand supported the order passed by the Tribunal. It is submitted that present case is squarely covered by the decision of the Hon'ble Supreme Court in *Union of India and another vs. S. K. Murti* (supra).

5. We have carefully perused the impugned order passed by the Tribunal. We see no reason to interfere with the order passed by the Tribunal for the reasons hereinafter stated. We are in agreement with the submissions made by learned counsel for the Respondents that the present case is squarely covered by the decision of the Supreme Court in *Union of India and another vs. S. K. Murti* (supra). It is relevant to reproduce paragraph 8 of the decision of the Supreme Court in *Union of India and another vs. S. K. Murti* (supra) which reads thus :-

“8. Since the time fixed by the High Court for compliance of the direction given by it has already expired, we direct the petitioners to do the needful within four weeks from today. Similar order shall be passed for all similarly situated persons despite the fact that they may not have approached the High Court questioning the order passed by the Tribunal. This direction is being given to avoid further litigation in the

1 2011 SCC OnLine SC 1655

matter.”

6. In our opinion therefore the Petitioners would have been well advised to extend the benefits of the decision of the Hon'ble Supreme Court to the Respondents who were similarly situated.

7. It is pertinent to note that the Tribunal has relied upon the decision of the Central Administrative Tribunal, Principal Bench, New Delhi in **R. R. Bakde vs. The Secretary, Ministry of Environment & Forests and others** in Original Application No.2549 of 2015 decided on 4th January 2023.

8. The Principal Bench of the Tribunal in paragraphs 13 and 14 has observed thus :-

“13. The reliance on the decision of this Tribunal in RA No.157/2017 in OA No.2894/2012 in Union of India & Anr. v. Vinod Kumar Jain & Ors. (supra) by the respondents to contend that the decision of the Hon'ble Supreme Court is a judgment in personam and hence cannot be extended to all similarly placed persons, is of no help in view of the above decision of the Hon'ble Supreme Court where the Hon'ble Supreme Court has held the same as a judgment in rem. We are of the considered view that a decision of the Supreme Court is binding on all Courts/Tribunals. By Article 141 of the Constitution of India it is laid down that the law declared by the Supreme Court shall be binding on all courts within the territory of India.

14. In view of the dicta of the Hon'ble Supreme Court in Vinay Kumar (supra), and also for parity of reasons, we allow this O.A. and direct the respondents to ante

date the award of promotion to the next grade to the applicant under the FCS from the date of eligibility keeping in view the decisions of this Tribunal in *S.K. Murti (supra)* as upheld by the Hon'ble Supreme Court. The applicant shall be entitled to all consequential benefits, including re-fixation of pay, pension and arrears thereof, in accordance with the relevant rules and law. These directions shall be complied with by the respondents within 12 weeks from the date of receipt of a copy of this order.”

9. It is significant to note that the decision in *R. R. Bakde* was challenged by the Union of India before the Delhi High Court. By the judgment and order dated 18th December 2023, the Delhi High Court dismissed the Writ Petition by affirming the findings recorded by the Tribunal. The Special Leave Petition filed by the Union of India against the order of the Delhi High Court came to be dismissed by the judgment and order dated 10th July 2024.

10. The Petitioners are similarly situated and in view of the decision of the Supreme Court in *Union of India and another vs. S. K. Murti (supra)*, the Union of India should have passed the similar order for all similarly situated persons which includes the present Respondents. The Hon'ble Supreme Court had issued directions in paragraph 8 in *Union of India and another vs. S. K. Murti (supra)* only with a view to avoid further litigation in the matter. We therefore do not find any merit in this Petition.

11. The Writ Petition is dismissed. No cost.

(N.R.BORKAR, J.)

(M.S.KARNIK, J.)