

ITEM NO.10 Virtual Court 4 SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No(s).1012/2020 in
Writ Petition (C) Diary No 10990 of 2020

RAJAN SHARMA & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ANR. Respondent(s)

(WITH IA No.50164/2020-EXEMPTION FROM FILING AFFIDAVIT and IA
No.48925/2020-APPROPRIATE ORDERS/DIRECTIONS)

Date : 15-06-2020 This application was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s) Mr. Kailash Vasdev, Sr. Adv.
 Mr. Somanatha Padhan, AOR

For Respondent(s) Mr. Aman Lekhi, ASG
 Mr. Kanu Agarwal, Adv.
 Mr. Rajat Nair, Adv.
 Mr. Raj Bahadur Yadav, AOR

UPON hearing the counsel the Court made the following
O R D E R

1 The appointments of the petitioners as members of the Railway Claims Tribunal were for a tenure of five years. This tenure of five years which was notified under Section 7 of the Railway Claims Tribunal Act 1987¹ has admittedly ended. The petitioners, therefore, do not have any subsisting right to continue in office after the end of their terms of appointment.

2 Mr Kailash Vasdev, learned senior counsel appearing on behalf of the petitioners, submits that under the Tribunal, Appellate and Other Authorities (Qualifications, Experience and Other Conditions of Service of Member) Rules 2020² which were notified on 12 February 2020, the term of office which has been prescribed under Rule 9(2) is four years or until the attainment of the age of sixty five years, whichever is earlier.

3 We are unable to accept the submission that the petitioners would be entitled to the benefit of Rule 9(2). The appointment of the petitioners was governed by the provisions of Section 7. Rule 9(2) would not operate to extend their appointment till they attain the age of sixty five years. In any event, Rule 9(2) refers to a term of four years or the age of sixty five years, whichever is earlier. The petitioners have clearly no vested right to continue after their tenure has ended.

4 Mr Kailash Vasdev further relied on an order of this Court dated 27 April 2020 of a Bench consisting of one of us (Hon'ble Hemant Gupta, J), while hearing Writ Petition (Civil) Diary No 10990 of 2020. This Court recorded the statement of the Additional Solicitor General that the process of appointment of seventeen members would be completed within

²"2020 Rules"

fifteen days. The Court observed that since seventeen members were likely to be appointed in the near future, there was no need to entertain the petition under Article 32.

5 The grievance is that despite the earlier statement, no appointment of judicial members has been made so far.

6 Mr Aman Lekhi, Additional Solicitor General, submits that the appointment of twelve technical members has already been notified. Insofar as the judicial members are concerned, the matter is before the Appointments Committee of the Cabinet³. Mr Lekhi submitted that ordinarily the appointment would have been notified by now, but as a result of the intervening outbreak of Covid-19, it has not become possible for the ACC to assemble for this purpose at an early date. However, Mr Lekhi has stated that he would intervene in the matter and the appointments would be expected with all reasonable despatch.

7 Mr Lekhi has also submitted that insofar as the petitioners are concerned, their terms of office were governed by Section 7 of the Railway Claims Tribunal Act and they are not entitled to be reappointed by virtue of the provisions of Section 10.

8 We have come to the conclusion that the petitioners have no subsisting right to demand either an extension of their appointment or a re-appointment. Insofar as the making of fresh appointments is concerned, we take on record the

³“ACC”

statement of the learned Additional Solicitor General that the appointment of judicial members shall be taken up with all reasonable despatch since the issue is presently pending before the ACC.

- 8 Taking on record the aforesaid statement, we dispose of the Miscellaneous Application.
- 9 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER