

ITEM NO.11

COURT NO.8

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 14036/2019

(Arising out of impugned final judgment and order dated 30-05-2019 in WP No. 1712/2018 passed by the High Court Of M.P. Principal Seat At Jabalpur)

WARAD MURTI MISHRA, CHIEF EXECUTIVE OFFICER,
ZILA PANCHAYAT KHANDWA

Petitioner(s)

VERSUS

STATE OF MADHYA PRADESH & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.91437/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.91440/2019-EXEMPTION FROM FILING O.T.)

WITH

SLP(C) No. 13973/2019 (IV-A)

(FOR ADMISSION and I.R. and IA No.90662/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.90663/2019-EXEMPTION FROM FILING O.T. and IA No.90660/2019-PERMISSION TO FILE SYNOPSIS AND LIST OF DATES)

SLP(C) No. 14134/2019 (IV-A)

(FOR ADMISSION and I.R. and IA No.92339/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.92340/2019-EXEMPTION FROM FILING O.T.)

SLP(C) No. 14083/2019 (IV-A)

(FOR ADMISSION and I.R. and IA No.91731/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.91733/2019-EXEMPTION FROM FILING O.T.)

Date : 11-07-2019 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Arjun Garg, AOR
Mr. Aakash Wandolia, Adv.
Mr. Davansh Shrivastava, Adv.
Ms. Garima Tiwari, Adv.

For Respondent(s) Mr. Purushaindra Kaurav, Sr. Adv.
Ms. Vanshaja Shukla, AOR
Ms. Anuradha, Adv.

Mr. Rahul Kaushik, AOR

Ms. Bhuvneshwari Pathak, Adv.
Ms. Shilpi Satyapriya Satyam, Adv.

Mr. P.S. Patwalia, Sr. Adv.
Mr. Puneet Jain, Adv.
Ms. Christi Jain, AOR
Mr. Harsh Jain, Adv.
Ms. Ankita Gupta, Adv.

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

Mr. Ravindra Shrivastava, learned senior counsel invited our attention to the questions framed by the Division Bench in para 21 of its order and to the following observations in paragraphs 22 and 23 :-

"22. In view of the foregoing observations, we deem it appropriate to refer the judgment of the Full Bench to the Larger Bench to answer the aforesaid issues.

23. Registrar (Judicial) is requested to place the matter before Hon'ble Chief Justice to do the needful and to take appropriate steps in this regard in view of the foregoing observations."

According to Mr. Shrivastava, the controversy in question had reached this Court in 2009 when the special leave petitions and the review petitions were dismissed affirming the view taken by the Division Bench in Writ Appeal No.510 of 2009 and other connected matters. Thereafter, on a reference made by the Division Bench, the Full Bench of the High Court had an occasion to consider the matter. The judgment of the Full Bench rendered in Writ Appeal No.607 of 2011 and connected matters was challenged before this Court in SLP (C) No.20288 of 2012 and other connected matters. The special leave petitions were dismissed by this Court on 1st September, 2017 and review petitions arising therefrom were also

dismissed by this Court. The submission of Mr. Shrivastava is that the matters having been settled, the Division Bench ought not to have referred the matter for further consideration by a larger Bench.

Mr. Rahul Kaushik, learned counsel appearing for the State relied upon the decisions of this Court reported in M.P. Chandoria vs. State of M.P. & Ors. [(1996) 11 SCC 173]; State of M.P. vs. Ramkinkar Gupta & Ors. [(2000) 10 SCC 77]; and Om Prakash Shrivastava vs. State of M.P. & Anr. [(2005) 11 SCC 488] to submit that the passing of the departmental examination would be a relevant criteria to determine the seniority and if in the intervening period a subsequent batch had been appointed, the person from the previous batch would not retain his seniority as against the subsequent batch. In his submission, the Division Bench was, therefore, justified in making the reference to a larger Bench.

Mr. P.S. Patwalia, learned senior counsel appearing for some of the private respondents on caveat, invited our attention to the interplay between Rule 8(7) and Rule 12 of the Madhya Pradesh Civil Services (General Conditions of Service) Rules, 1961. According to the learned counsel, by virtue of Rule 8(7), the status of such a Government servant would be "temporary Government servant" and he would cease to be part of the regular service and, therefore, Rule 12 would be completely inapplicable.

The rival submissions need to be gone into. We, therefore,

issue notice returnable on 20.08.2019. The respondents who are appearing on caveat need not be served. Rest of the respondents be served immediately.

Dasti in addition.

The respondents are at liberty to file their reply within three weeks from today. Rejoinder, if any, be filed within a week thereafter.

List the matter on 20.08.2019.

In the meantime, there shall be stay of operation of paragraph nos.22 and 23 of the order presently under appeal.

(GULSHAN KUMAR ARORA)
COURT MASTER

(SUMAN JAIN)
COURT MASTER