

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.495/2020
(ARISING OUT OF SLP(C) NO.5341/2018)

KUNJI LAL MEENA IAS & ANR.

APPELLANT(S)

VERSUS

DR. MUKESH KUMAR MALI & ORS.

RESPONDENT(S)

WITH

Civil Appeal No.496/2020 (@ SLP(C) No. 5957/2018)

Civil Appeal No.497/2020 (@ SLP(C) No. 6070/2018)

Civil Appeal No.498/2020 (@ SLP(C) No. 6327/2018)

Civil Appeal No.499/2020 (@ SLP(C) No. 6069/2018)

O R D E R

For the reasons stated, I.A. Nos.37640/2018 and 7637/2020 for impleadment are allowed and the applicants are impleaded as party respondents.

I.A. Nos.37647/2018 and 7600/2020 in SLP(C) No.5341/2018

Counsel for the Respondents claim that they are to be appointed in view of the policy framed by the State Government vide letter dated 25.01.2018, which is placed on record. The letter recommends 24 candidates for appointment on the post of Veterinary Officer.

Dr. Manish Singhvi, learned senior counsel appearing for the petitioners, does not dispute the aforesaid letter.

We accordingly direct that respondents covered by the letter dated 25.01.2018 shall be appointed to the post

of Veterinary Officer within a period of one month from today.

CIVIL APPEAL NO.495/2020 (@ SLP(C) NO.5341/2018), Civil Appeal No.496/2020 (@ SLP(C) No.5957/2018), Civil Appeal No.497/2020 (@ SLP(C) No.6070/2018) Civil Appeal No.498/2020 (@ SLP(C) No.6327/2018) Civil Appeal No.499/2020 (@ SLP(C) No. 6069/2018)

Leave granted.

Learned Single Judge of the High Court vide order dated 06.04.2017 had given the following direction :

"[.....]To fill the 150 posts of Veterinary Officer from the remaining candidates of the said select/waiting list shall be read as "to be filled in accordance with merit as well as in accordance with rules".

According to the State of Rajasthan, the aforesaid direction had required that 150 posts of Veterinary Officer should be filled in accordance with the rules, that is to say, the rules for filling up the backlog. The rule in question requires the posts from the backlog to be filled up separately in accordance with the quota pertaining to the particular category in which the backlog has arisen.

The above order had modified the earlier order dated 19.1.2017 made by the High Court in a petition filed by the general category candidates who had applied for appointment as Veterinary Officer in pursuance of an advertisement dated 30.04.2015. This advertisement had clearly specified that the number of backlog posts for Scheduled Castes and Scheduled Tribes were 68 and 82 respectively.

However, the petitioners before the High Court, feeling aggrieved that they had not been appointed in accordance with the order dated 06.4.2017 passed by the High Court, filed a contempt petition being S.B. Writ Contempt No.804 of 2017. By order dated 29.01.2018 in the said contempt petition, the High Court observed that the appellants (herein)/authorities though required to carry forward the vacancies of the SC/ST in the eventuality of the equal number of SC/ST candidates not available but could not have left them unfilled. Nevertheless, the High Court has not in express terms stated and held that the effect of the said observation is that the posts will now have to be filled up from the general category and not from the reserved category, though the said 150 posts of Veterinary Officer were advertised as backlog posts from the reserved category.

Dr. Singhvi, learned senior counsel for the appellants submits before us that the High Court lost sight of the fact that the State Government is required to fill up 150 posts of Veterinary Officer from the backlog that has arisen due to not filling up of reserved category posts. According to him, these posts cannot be filled up from the general category candidates divesting and converting the reserved category posts.

Mr. P.S. Patwalia, learned senior counsel appearing for the respondents, submits that the duration of the backlog posts being longer than three years in view of the

observation of this Court in paragraph 100 of *M Nagaraj & Ors. vs. Union of India & Ors.* - 2006 (8) SCC 212, and the rule in force, the State Government is not entitled to carry forward the reserved vacancies over a period longer than three years.

The aforesaid contention of Mr. Patwalia, learned senior counsel, raises an entirely different matter and issue. This contention was not raised before the High Court in the writ petition and therefore, the same has not been gone into by the High Court.

To decide the contention, it would be necessary to see the number of posts of Veterinary Officer that were carried forward, the duration for which they were carried forward, and whether they had been carried forward for three years before the advertisement was issued. These facts would have to be examined and considered in the light of the Rule position. These aspects of the matter will have to be gone into by the High Court.

We accordingly consider it appropriate to direct the High Court to treat the aforesaid contempt petition as a miscellaneous application preferred by the respondents and decide the contentions of both sides on its own merits and in accordance with law.

We dispose of these appeals, set aside the impugned judgment and order passed by the High Court and direct the High Court to dispose of the matter as expeditiously as possible preferably within a period of four weeks from the

date the parties appear before it. The parties are directed to appear before the High Court on 03.02.2020.

The respondents shall be at liberty to file a fresh affidavit. The State Government is also given liberty to file a specific reply to the said affidavit.

It is also open to the State Government to consider appointing certain candidates if they are qualified for the post. This remand order shall not prevent the government from doing so.

Ordered accordingly.

.....CJI
[S.A. BOBDE]

.....J
[S. ABDUL NAZEER]

.....J
[SANJIV KHANNA]

NEW DELHI;
JANUARY 21, 2020.

ITEM NO.9

COURT NO.1

SECTION XV

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

Petition(s) for Special Leave to Appeal (C) No(s).5341/2018

(Arising out of impugned final judgment and order dated 29-01-2018 in WC No. 804/2017 passed by the High Court Of Judicature For Rajasthan At Jodhpur)

KUNJI LAL MEENA IAS & ANR.

Petitioner(s)

VERSUS

DR. MUKESH KUMAR MALI & ORS.

Respondent(s)

(With IA No. 7600/2020 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 37647/2018 - CLARIFICATION/DIRECTION and IA No. 27051/2018 - EXEMPTION FROM FILING O.T. and IA No. 110117/2018 - EXEMPTION FROM FILING O.T. and IA No. 74104/2018 - EXEMPTION FROM FILING O.T. and IA No. 37640/2018 - INTERVENTION/IMPLEADMENT and IA No. 7637/2020 - INTERVENTION/IMPLEADMENT)

WITH SLP(C) No. 5957/2018 (XV)

SLP(C) No. 6070/2018 (XV)

SLP(C) No. 6327/2018 (XV)

SLP(C) No. 6069/2018 (XV)

(With IA No. 32555/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 21-01-2020 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE S. ABDUL NAZEER

HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Dr. Manish Singhvi, Sr. Adv.
Mr. Shailja Nanda Mishra, Adv.
Mr. Arpit Parkash, Adv.
Mr. Sandeep Kumar Jha, AOR
For Ms. Ruchi Kohli, AOR

For Respondent(s)/ Mr. Jayant Bhushan, Sr. Adv.
Applicant(s) Mr. Yashraj Singh Deora, AOR
Mr. Ketan Paul, Adv.
Mr. Shyam Agarwal, Adv.
Mr./Ms. Amabya Bhushan, Adv.

Mr. P.S. Patwalia, Sr. Adv.
Mr. Ram Niwas Buri, Adv.
Mr. G.P. Tiwari, Adv.

Ms. Preeti Singh, AOR

Ms. Preetika Dwivedi, AOR
Ms. Sukriti Bhatnagar, Adv.

Mr. Gp. Capt. Karan Singh Bhati, AOR

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

For the reasons stated, I.A. Nos.37640/2018 and 7637/2020 for impleadment are allowed and the applicants are impleaded as party respondents.

Leave granted.

These appeals and the pending interlocutory applications stand disposed of in terms of the signed order.

(SANJAY KUMAR-II)
COURT MASTER (SH)

(PRADEEP KUMAR)
BRANCH OFFICER

(Signed Order is placed on the file)