

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
I.A.Nos.2 & 3 OF 2017

IN
SPECIAL LEAVE PETITION (C)NO.14252 OF 2015

STATE OF RAJASTHAN AND ORS.

.....PETITIONERS

VERSUS

VIJAY KUMAR SONI

.....RESPONDENT

O R D E R

I.A.No.2 of 2017

1. The instant interlocutory application has been filed for seeking appropriate directions.
2. Issue notice.
3. Mr.Ajay Kapoor, learned Additional Advocate General, accepts notice on behalf of non-applicants/petitioners.
4. Learned Additional Advocate General appearing on behalf of the non-applicants/petitioners states, that the issue being purely legal, he is ready to address the Court today itself.
5. We have heard learned counsel for the rival parties.
6. It is not a matter of dispute, that the Rajasthan Land Revenue (Qualification and Conditions of Service of Chairman and Members of the Board) Rules, 1971, stipulated, that an advocate, qualified for appointment as a Judge of a High Court, and having completed 50 years of age as on 1st of January of the year in which the appointment is made, would be eligible, for appointment. The instant qualification was modified by an amendment which was notified on 25.01.2010. By the above amendment, the expression `50

years' was substituted by the expression '54 years'. It is therefore apparent, that when the impugned selection was conducted, the relevant rule postulated, that the concerned individual should have completed 54 years of age, on 1st of January of the year in which the appointment is made.

7. We have seen the vernacular version of Annexure P-4 (dated 05.04.2010), which was the advertisement issued by the Chief Secretary of the Government of Rajasthan, inviting application from advocates practicing before the Revenue Board, for selection to the post of Chairman and Members of the Revenue Board. This was the advertisement, in response to which, the respondent had applied for being considered. The advertisement also postulated, that the selected candidate should have completed 54 years of age on the first day of January of the year of appointment.

8. The contention at the behest of the learned Additional Advocate General appearing on behalf of the non-applicants/petitioners was, that even though the aforesaid postulated position, was expressly mentioned in the advertisement, yet it was clarified in the advertisement itself, that the age of the concerned candidate, as on January 1, 2010, should be at least 54 years.

9. We have given our thoughtful consideration, to the solitary contention advanced at the hands of the learned Additional Advocate General, appearing on behalf of the non-applicants/petitioners. It is not possible for us to accept the contention advanced by him firstly, for the reason, that the interpretation placed by him on the advertisement would be in

derogation of the statutory rules referred to hereinabove. Moreover, the age of 54 years as on 01.01.2010, depicted in the advertisement, must have been expressed under the contemplation that the selection process would be completed in the year 2010 itself. Since the selection was to be completed only in May, 2015, and, the applicant -Vijay Kumar Soni was appointed on 22.05.2015, the age requirement for such appointment, had to be determined with reference to 01.01.2015. It is not disputed by the learned Additional Advocate General, that on 01.01.2015, the respondent - applicant - Vijay Kumar Soni was 56 years and 4 months' old.

10. In the above view of the matter, we hereby direct that the appointment of the applicant/respondent, would not be undone, merely on account of the interim stay granted by this Court, on 23.01.2017.

11. I.A.No.2 of 2017 is allowed, in the above terms.

12. As a sequel to the above, pending interlocutory application(s), if any, also stand(s) disposed of.

.....CJI.
(JAGDISH SINGH KHEHAR)

.....J.
(Dr.D.Y.CHANDRACHUD)

.....J.
(SANJAY KISHAN KAUL)

NEW DELHI;
FEBRUARY 20, 2017.

ITEM NO.10

COURT NO.1

SECTION XV

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

RECORD OF PROCEEDINGS

I.A. 2 & 3/2017 in Petition(s) for Special Leave to Appeal (C)
No(s).14252/2015

(Arising out of impugned final judgment and order dated 25/02/2015
in DBCWP No.4331/2010 passed by the High Court of Rajasthan at
Jodhpur)

STATE OF RAJASTHAN AND ORS.

Petitioner(s)

VERSUS

VIJAY KUMAR SONI

Respondent(s)

(For directions and exemption from filing O.T. and office report)

Date : 20/02/2017 This application was called on for hearing today.
CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Petitioner(s) Mr.Ajay Kapur, AAG
Mr.Anirudh Singh, Adv.
Mr. Milind Kumar, Adv.

For Respondent(s) Mr.Nidhesh Gupta, Sr.Adv.
Mr.Gaurav Khanna, Adv.
Mr.H.D.Thanvi, Adv.
Mr.Abhishek Gautam, Adv.
Mr.Viriti Gujral, Adv.

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

I.A.No.2 of 2017

Issue notice.

Mr.Ajay Kapoor, learned Additional Advocate General,
accepts notice on behalf of non-applicants/petitioners.

I.A.No.2 of 2017 is allowed, in terms of the signed
order.

As a sequel to the above, pending interlocutory
application(s), if any, also stand(s) disposed of.

(SATISH KUMAR YADAV)

AR-CUM-PS

(RENUKA SADANA)

ASSISTANT REGISTRAR

(Signed order is placed on the file)