

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2511 OF 2018

(Arising out of S.L.P. (Civil) No.18994/2017)

V. PADMAKUMAR .. APPELLANT (S)

Versus

S. CHANDRASEKHARAN POTTY &amp; ORS. .. RESPONDENT (S)

J U D G M E N TKURIAN J.

Leave granted.

The whole dispute pertains to the claims for transfer made by the appellant and respondent No.1 to Neyyattinkara Deveswom. The appellant joined service on 22<sup>nd</sup> August, 1991 and the 1<sup>st</sup> respondent on 24<sup>th</sup> February, 1979. We are informed that the 1<sup>st</sup> respondent is due to retire on 31<sup>st</sup> July, 2018. The appellant's claim is on the basis of the station seniority whereas the 1<sup>st</sup> respondent has claimed it both on the basis of station seniority and service seniority. According to the 1st respondent the date of order of transfer shall be the crucial date for reckoning the station seniority. Reference is invited to the following clause in the circular issued in February, 2015. Clause 16 reads as under:

"Station seniority of the employees who are transferred under the same transfer order shall be the date of transfer order."

We are afraid that the contention cannot be appreciated. If that contention is to be followed, the same may help delay the date of decision so as to make a person eligible, as it happened in the instant case. The Circular having prescribed a cut-off date for the receipt of the applications, under para 8, the station seniority has to be counted as on the last date of receipt of the applications. The eligibility must depend on that date, otherwise it would lead to arbitrary exercise of power. The whole purpose of paragraph 16 of the circular, which is extracted above, is to eliminate any dispute with regard to the commencement of the station seniority. Therefore, the appellant has to succeed on the question of law. The station seniority has to be reckoned with reference to the last date of the submission of application and not with reference to the date of transfer. The impugned judgment is hence set aside.

However, having regard to the fact that the 1<sup>st</sup> respondent is due to retire on 31<sup>st</sup> July, 2018, we find it a fit case to exercise our jurisdiction under Article 142 of the Constitution. Accordingly, this appeal is disposed of as follows. The 1<sup>st</sup> respondent shall be continued under the Neyyattinkara sub group Sree Krishnaswamy Temple till his date of retirement. Thereafter, with effect from 1<sup>st</sup> August, 2018 the appellant shall be posted at the temple and will continue for

a further period of three years.

.....J.  
[KURIAN JOSEPH]

.....J.  
[MOHAN M. SHANTANAGOUDAR]

NEW DELHI,  
MARCH 06, 2018.

ITEM NO.28

COURT NO.5

SECTION XI-A

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). 18994/2017

(Arising out of impugned final judgment and order dated 05-07-2017 in WA No. 1220/2017 passed by the High Court of Kerala at Ernakulam)

V. PADMAKUMAR

Petitioner(s)

VERSUS

S. CHANDRASEKHARAN POTTY &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R.)

Date : 06-03-2018 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE KURIAN JOSEPH

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Jayant Muth Raj, Adv.  
Mr. Manukrishnan G., Adv.  
Ms. Nayantara Roy, Adv.  
Mr. P. S. Sudheer, AOR

For Respondent(s) Mr. Jogy Scaria, AOR

Ms. S. Udaya Kumar Sagar, Adv.  
Ms. Bina Madhavan, Adv.  
Mr. Prateek Dhir, Adv.  
Mr. Ramandeep Kaur, Adv.  
Ms. Shreyasi Kunwar, Adv. for  
M/S. Lawyer S Knit & Co, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of in terms of the signed non-reportable judgment.

Pending application, if any, stands disposed of.

(USHA RANI BHARDWAJ)

(RENU DIWAN)

AR CUM PS

ASST.REGISTRAR

Signed non-reportable judgment is placed on the file.