

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 746 OF 1999

[Arising out of SLP @ No. 9733 of 1993]

321834

Union of India & Ors.

.. Appellants

versus

Shri B.D. Kubba

.. Respondent

O R D E R

Delay condoned.

Certified to be true copy

Ats
Assistant Registrar (Judi.)

...../6/2/.....199

Supreme Court of India

Special leave granted.

The decision of this Court in Union of India & Anr. vs. R. Swaminathan, 1997(7) SCC 690, squarely covers this appeal in favour of the appellants.

The respondent, appearing in person, has drawn our attention to a circular letter dated 13.2.98 issued to all Heads of Telecom circles by the Assistant Director General (P&T). The letter pertaining to the aforesaid judgment, gives direction as to how it is to be implemented. In terms it

excludes those matters where proceedings are pending in this Court; the present appeal of the respondent is excluded in paragraph 5 of that letter. The terms of that letter do not, therefore, apply to the respondent and cannot assist him.

Reference is made by the respondent to paragraph 12 of the aforesaid judgment, where it is stated, "The question is basically of administrative exigency and the difficulty that the administration may face if even short-term vacancies have to be filled on the basis of all-India seniority by calling a person who may be stationed in a different Circle in a region remote from the region where the vacancy arises, and that too for a short duration. This is essentially a matter of administrative policy. But the only justification for local promotions is their short duration. If such vacancy is of a long duration there is no administrative reason for not following the all-India seniority. Most of the grievances of the employees will be met if proper norms are laid down for making local officiating promotions." The reasoning of this Court is contained in paragraphs prior to paragraph 12. The observations in paragraph 12 are in the nature of advice to the employer departments. That the employee concerned in the present case was officiating in an ad-hoc capacity for a long duration does not make any

(141)

difference to the rationale of the judgment, which, as aforesated, covers this appeal against the respondent.

In the circumstances, the appeal is allowed and the order under appeal is set aside. There shall be no order as to costs.

sd/-
.....J.
(S.P. Bharucha)

sd/-
.....J.
(R.P. Sethi)

sd/-
.....J.
(S.N. Phukan)

New Delhi
February 5, 1999

[S.N. Phukan]