



IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1124 OF 2012

SANKAR KUMAR DAS

...APPELLANT(S)

VERSUS

**HON'BLE HIGH COURT,
CALCUTTA & ORS.**

...RESPONDENT(S)

WITH

CIVIL APPEAL NO. 1125 OF 2012

SUBASISH MUHURI

...APPELLANT(S)

VERSUS

HIGH COURT AT CALCUTTA & ORS.

...RESPONDENT(S)

ORDER

1. The present appeals have been filed against the

judgment of the High Court¹. The issue under consideration is regarding eligibility of Assistant Public Prosecutor and Stamp Reporter for appointment to the post of Judicial Officers (entry level). The appellant in Civil Appeal No. 1124 of 2012 had been working as an Assistant Public Prosecutor, whereas appellant in Civil Appeal No. 1125 of 2012 had been working as a Stamp Reporter in the High Court at Calcutta.

2. The appellants appeared for the West Bengal Judicial Service Examination notified *vide* advertisement dated 17.02.2007. As is evident from the material on record, the selection process was completed in the year 2008, and appointments were made at relevant time. They are seeking appointment as Judicial Officers on the grounds set forth by them.

3. Considering the period elapsed after the advertisement, selection and appointments made more than one and a half decades back, in the matter of appointments to the post of Judicial Officers (entry level), in our view, no

¹ High Court at Calcutta in MAT Number 815 of 2008

effective relief can be granted at this stage. Appointment to the Judicial Service will not be justified at this stage at entry level even with grant of consequential benefits notionally.

4. Further none of the selected candidate has been impleaded as respondents in the appeal, who may have to give way, in case claim of the appellants is accepted. Reference for the purpose can be made to the Constitution Bench judgment of this Court in **Sivanandan C.T. and Others v. High Court of Kerala and Others**². The relevant paragraphs are reproduced as under:

“.....55. The question which now arises before the Court is in regard to the relief which can be granted to the petitioners. The final list of successful candidates was issued on 6-3-2017. The candidates who have been selected have been working as District and Sessions Judges for about six years. In the meantime, all the petitioners who are before the Court have not functioned in judicial office. At this lapse of time, it may be difficult to direct either the unseating of the candidates who have performed their duties. Unseating them at this stage would be contrary to public interest since they have gained experience as judicial officers in the service of the State of Kerala. While the grievance of the petitioners is that if the aggregate of marks in the written

² [2023] 11 SCR 674 : 2023 INSC 709

examination and viva voce were taken into account, they would rank higher than three candidates who are respondents to these proceedings, equally, we cannot lose sight of the fact that all the selected candidates are otherwise qualified for judicial office and have been working over a length of time. Unseating them would, besides being harsh, result in a situation where the higher judiciary would lose the services of duly qualified candidates who have gained experience over the last six years in the post of District Judge.

56. *For the above reasons, we have come to the conclusion that it would not be possible to direct the induction of the petitioners into the Higher Judicial Service at the present stage. Many of the petitioners would have since joined the Bar and would be in active practice. It needs to be clarified that their having failed to gain selection to the Higher Judicial Service in the process which was initiated on 30-9-2015, is not a reflection either on their merits or ability and shall not come in the way of their being considered for any other office, judicial or otherwise, in the future.”*

.....

57.6. *In terms of relief, we hold that it would be contrary to the public interest to direct the induction of the petitioners into the Higher Judicial Service after the lapse of more than six years. Candidates who have been selected nearly six years ago cannot be unseated. They were all qualified and have been serving the district judiciary of the State. Unseating them at this stage would be contrary to public interest. To induct the petitioners would be to bring in new*

candidates in preference to those who are holding judicial office for a length of time. To deprive the State and its citizens of the benefit of these experienced judicial officers at a senior position would not be in public interest.”

5. In the present case, given the fact that 17 years have passed since the date of advertisement and the candidates who have been appointed would have reached senior positions as well as would have gained substantial experience as judicial officers, hence by lapse of time it would not be in public interest to adjudicate the issue on merit.

6. Accordingly, both the civil appeals stand disposed of. Pending interlocutory applications (if any) shall also stand disposed of.

....., **J.**
[J.K. MAHESHWARI]

....., **J.**
[RAJESH BINDAL]

New Delhi;
September 25, 2024.