

ITEM NO.101

COURT NO.13

SECTION XI

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

Civil Appeal No(s). 716-717/2011

H.P. MATHUR AND ORS.

Appellant(s)

VERSUS

STATE OF U.P. AND ORS.

Respondent(s)

(With appln. (s) for impleadment and office report)

WITH

W.P.(C) No. 541/2011

(With Office Report)

W.P.(C) No. 129/2012

(With (With (With (With appln.(s) for early hearing and appln.(s) for directions and appln.(s) for directions and appln.(s) for directions and Office Report)

C.A. No. 7880-7882/2011

(with Office Report)

C.A. No. 6156/2012

(With Office Report)

C.A. No. 9142-9144/2010

(With Interim Relief and Office Report)

Date : 22/09/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Appellant(s)

Mr. Yatish Mohan, Adv.
Mr. E. C. Vidya Sagar, Adv.

Ms. Kiran Suri, Sr. Adv.

Mr. Purushottam Sharma Tripathi, Adv.

Mr. Rajeev Kumar Gupta, Adv.

Mr. Mukesh Kumar Singh, Adv.

Mr. S.J. Amith, Adv.

Mr. Gautam Kumar, Adv.

Mr. Ravi Chandra Prakash, Adv.

Mr. L. Nidhi Ram Sharma, Adv.

Mr. Mohan Pandey, Adv.

Ms. Shalu Sharma, Adv.

Dr. Vinod Kumar Tewari, Adv.
 Mr. Pankaj Kumar Singh, Adv.
 Mr. Anupam Dwivedi, Adv.

Mr. K. L. Janjani, Adv.

For Respondent(s) Mr. Pramod Swarup, Sr. Adv.
 Mr. D.K. Goswami, Adv.
 Ms. Alka Sinha, Adv.
 Mr. Anuvrat Sharma, Adv.

Mr. Ardhendumauli Kumar Prasad, Adv.

Mr. Kamlendra Mishra, Adv.

Mr. Rakesh Uttamchandra Upadhyay, Adv.
 Ms. Aarti Upadhyay, Adv.
 Mr. Amar Deep Sharma, Adv.

Mr. Ravindra Kumar, Adv.

Mr. Balraj Dewan, Adv.
 Mr. Rajeev Kumra Gupta, Adv.

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

On hearing learned counsel for the parties, we find that all the appellants/petitioners who are erstwhile employees of different Corporations in the State of U.P. are claiming relief on the basis of parity with some other employees of such Corporations whose cases have been decided earlier up to this Court, including in Civil Appeal Nos. 9163-9172 of 2010 etc. viz. Sunil Kumar Verma and Ors. Vs. State of U.P. & Ors. disposed of recently on 9th September, 2015 (that decision is by the Division Bench). We have perused that judgment and find that the same in fact follows some earlier orders of this Court on the assumption that effect of Rules of 2003 have already been decided by this Court.

On the other hand, learned counsel for the State of U.P. and other respondents have placed a strong reliance upon interpretation of 2003 Rules followed by a subsequent Act enacted by the Legislature of State of U.P. bearing the title "Uttar Pradesh Absorption of Retrenched Employees of Government of Public Corporations in Government Service (Rescission of Rules) Act, 2009". It is the contention of the respondents that the view taken by the Division Bench of Allahabad High Court in the impugned judgment is based upon valid interpretation of the Rules 2003 and also fortified by the said Act of 2009. It has been shown that in the case of Sunil Kumar Verma and Others Vs. State of U.P. and Ors. disposed of on 9th September, 2015, while granting relief to appellants in those cases who are said to be similarly situated employees before us, the Division Bench did not go into the effect of Rules of 2003 or the Act of 2009 and further, the findings of the High Court as to the effect of those statutory provisions have not been disturbed.

On going through the discussions made by the Division Bench of the High Court in the impugned judgment in respect of the Rules of 2003 and the Act of 2009, in our considered view, it would be necessary to examine whether the employees before us can be granted any relief without considering the judgment of the High Court on merits. That in our view should be done by a larger Bench of Three Judges. For that purpose, we refer the matters to

the larger Bench. These matters be posted accordingly after seeking orders of Hon'ble the Chief Justice of India.

Liberty is granted to the parties for mentioning the matter before the Hon'ble Chief Justice of India for early hearing of the matters.

(Madhu Bala)
Court Master

(Tapan Kr. Chakraborty)
Court Master