

CASE NO.:
Appeal (civil) 4594 of 2007

PETITIONER:
Sita Ram Tiwari

RESPONDENT:
Union of India and Anr

DATE OF JUDGMENT: 26/09/2007

BENCH:
TARUN CHATTERJEE & P. SATHASIVAM

JUDGMENT:
JUDGMENT
O R D E R
[Arising out of SLP {C} No.11875 of 2005]

1. Delay condoned.
2. Leave granted.
3. This appeal by special leave is directed against the judgment and order dated 2nd of November, 2004 passed by a Division Bench of the High Court of Judicature at Patna in C.W.J.C. No.9602 of 2004.
4. At the relevant point of time, the appellant was working as an officiating Vice Principal in Kendriya Vidyalaya Sangathan [for short 'the Sangathan']. After retirement, he made representations before the authorities for consideration of his prayer for promotion to the post of Principal in the Sangathan. An approach was made before the Central Administrative Tribunal, Patna, [for short 'the Tribunal'] for a direction to the authorities to consider the said prayer of the appellant. By an order, the Tribunal directed the authorities to consider his prayer for promotion to the said post of Principal. The representation filed by the appellant was considered and rejected by the authorities against which, the Tribunal was approached again which rejected the prayer of the appellant. Feeling aggrieved, a writ petition was moved before the High Court which also affirmed the order of the Tribunal. The present appeal by grant of special has been preferred against the aforesaid order of the High Court.
5. Having heard the learned counsel appearing for the parties and after going through the materials on record, including the order passed by the Tribunal and the impugned order dismissing the writ petition, we do not find any ground to interfere with the impugned order of the High Court in the exercise of our power under Article 136 of the Constitution. It is not in dispute that while the appellant was in service, he did not raise any objection for not selecting him for promotion to the post of Principal in the Sangathan. Challenge was made by the appellant only after his retirement. The Tribunal, while rejecting his prayer for promotion to the post of Principal in the Sangathan, on consideration of the material on record, held that no irregularity or illegality was committed by the Selection Committee while considering his prayer for promotion as Principal in the Sangathan. In the impugned order, the High Court concurred with the finding of the Tribunal that the appellant had failed to point out any violation of the statutory rules or Article 14 of the Constitution by denial of promotion to him. The High Court also held that only because a different view could be taken, it was no ground to reconsider the matter as urged on behalf of the appellant. We do not find any reason to interfere with these findings of the High Court or the Tribunal mainly on the ground that the Tribunal was approached by the appellant after his retirement from service and even while in service, the appellant had not challenged his supersession by other

junior members.

6. Since the appellant had already retired and in view of the findings of the High Court, with which we are in full agreement, we are not inclined to interfere with the impugned order of the High Court. The appeal, thus, fails. There will be no order as to costs.

JUDIS