

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10866-10867 OF 2017  
[@ SPECIAL LEAVE PETITION (C) Nos. 5894-5895 OF 2017]

ARUN KUMAR NIRANJAN Appellant (s)

VERSUS

DISTRICT BASIC EDUCATION OFFICER & ORS. Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.
2. The appellant, while working as a teacher, was promoted to the post of Headmaster in the year 2007. It appears that the appellant did not join duty, because according to the appellant, it was to a rural inconvenient area. Thereafter, the appellant was promoted again and posted as Headmaster by order dated 28.08.2010.
3. While working as Headmaster in terms of the promotion, the following Office Order was issued on 04.09.2010:-

*"As per the serial no. 145 of order no./Promotion/282/2010-11 dated 28.08.2010 of this office, Shri Vishnuswarup, Assistant Teacher, Girls Primary School, Nibahna, Block : Maheva has been promoted on the post of Head Master in Girls Primary School, Nibahna,*

*Block : Maheva. His promotion being of 2007 and on the basis of approval of the Chairman District Selection Committee (Promotion) is cancelled till the next orders with immediate effect."*

4. Thereafter, on 18.04.2011, a chargesheet was issued to the appellant with the following charges :-

- "1. Not taking charge in the original school after the cancellation of the promotion;*
- 2. Defying the instructions of the A.B.S.A., Development Block : Kaunch;*
- 3. Defying the Developmental Orders."*

5. Ms. Aishwarya Bhati, learned counsel appearing for the respondents, submits that the rules were amended on 15.01.2010. The amended Rule (d) reads as follows :-

*"If any teacher refuses the promotion within from the both aforesaid backward areas, that teacher would not be promoted till upcoming three years and again after three years, the promotion of that teacher would be considered as per prescribed rules."*

6. The learned Single Judge took the view that for declining to accept the promotion and refusing to join duty on account of promotion in the year 2007, the appellant cannot be visited with any penal

consequences, by relying on order issued in the year 2010. However, the order has been set aside as per the impugned order passed by the Division Bench. It is held by the Division Bench that the actual promotion of the appellant was after the introduction of the amended rules in January, 2010. But unfortunately, the Division Bench missed the crucial point that the appellant is proceeded against in respect of his conduct in the year 2007, namely, declining to accept the promotion and refusing to join duty in the promoted post. It is not in respect of an offending conduct after the introduction of the new rules in 2010. Therefore, we set aside the impugned Judgment and restore the Judgment of the learned Single Judge.

7. However, in the peculiar facts of this case, the order on costs passed by the learned Single Judge is vacated.

8. In view of the above, the appeals are disposed of.

No costs.

.....J.  
[ KURIAN JOSEPH ]

.....J.  
[ R. BANUMATHI ]

New Delhi;  
August 25, 2017.

ITEM NO.18

COURT NO.5

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

Petition(s) for Special Leave to Appeal (C) No(s). 5894-5895/2017

(Arising out of impugned final judgment and order dated 27-09-2016 in SA No. 1762/2011 and SA No. 1768/2011 passed by the High Court Of Judicature At Allahabad)

ARUN KUMAR NIRANJAN

Petitioner(s)

VERSUS

DISTRICT BASIC EDUCATION OFFICER &amp; ORS.

Respondent(s)

Date : 25-08-2017 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Anupam Mishra, AOR  
Ms. Pooja Singh, Adv.

For Respondent(s) Ms. Aishwarya Bhati, Adv.  
Ms. Alka Sinha, Adv.  
Mr. Adarsh Kumar Tiwari, Adv.  
Mr. Anuvrat Sharma, Adv.

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

Leave granted.

The appeals are disposed of in terms of the signed non-reportable Judgment.

Pending interlocutory applications, if any, stand disposed of.

(JAYANT KUMAR ARORA)  
COURT MASTER

(RENU DIWAN)  
ASSISTANT REGISTRAR

(Signed non-reportable Judgment is placed on the file)