

Union Of India vs S. Subbiah on 2 March, 2020

Bench: Uday Umesh Lalit, Vineet Saran

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ITEM NO.52

COURT NO.6

SECTION XII

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C)
28827/2017

No(s). 28825-

(Arising out of impugned final judgment and order dated 05-01-2017
in WP No. 28094/2015 05-01-2017 in WP No. 28093/2015 05-01-2017 in
WP No. 28092/2015 passed by the High Court Of Judicature At Madras)

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

S. SUBBIAH & ORS.

Respondent(s)

WITH

Diary No(s). 13901/2017 (XIV)

(FOR

FOR CONDONATION OF DELAY IN FILING ON IA 45508/2017

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
45509/2017

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
75058/2017

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
135584/2017

FOR RECALLING THE COURTS ORDER ON IA 110201/2018

FOR DELETING THE NAME OF PETITIONER/RESPONDENT ON IA 35076/2019

IA No. 45508/2017 - CONDONATION OF DELAY IN FILING

IA No. 35076/2019 - DELETING THE NAME OF PETITIONER/RESPONDENT

IA No. 135584/2017 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 75058/2017 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 45509/2017 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 110201/2018 - RECALLING THE COURTS ORDER)

Diary No(s). 17007/2017 (XIV)

(FOR

FOR CONDONATION OF DELAY IN FILING ON IA 51004/2017

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA
51005/2017

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA

51006/2017

Signature Not Verified

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
Digitally signed by
INDU MARWAH
Date: 2020.03.04

78847/2017

13:48:39 IST

Reason:

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA
93062/2017
FOR MODIFICATION OF COURT ORDER ON IA 110182/2018
FOR CLARIFICATION/DIRECTION ON IA 44097/2019

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FOR impleading party ON IA 105017/2019
IA No. 44097/2019 - CLARIFICATION/DIRECTION
IA No. 51004/2017 - CONDONATION OF DELAY IN FILING
IA No. 51005/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 105017/2019 - INTERVENTION/IMPLEADMENT IA No. 110182/2018 - MODIFICATION OF COURT ORDER IA No. 93062/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 78847/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES IA No. 51006/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES) Diary No(s). 20789/2018 (XIV) (FOR FOR CONDONATION OF DELAY IN RE-FILING ON IA 122037/2018 FOR CONDONATION OF DELAY IN FILING/REFILING SLP ON IA 122037/2018 FOR CONDONATION OF DELAY IN RE-FILING APPEAL ON IA 122037/2018 FOR CONDONATION OF DELAY IN FILING ON IA 122038/2018 IA No. 122038/2018 - CONDONATION OF DELAY IN FILING IA No. 122037/2018 - CONDONATION OF DELAY IN RE-FILING / CURING THE DEFECTS) Diary No(s). 36221/2018 (XIV) (FOR FOR CONDONATION OF DELAY IN FILING ON IA 161981/2018 FOR CONDONATION OF DELAY IN RE-FILING ON IA 161983/2018 FOR CONDONATION OF DELAY IN FILING/REFILING SLP ON IA 161983/2018 FOR CONDONATION OF DELAY IN RE-FILING APPEAL ON IA 161983/2018 IA No. 161981/2018 - CONDONATION OF DELAY IN FILING IA No. 161983/2018 - CONDONATION OF DELAY IN RE-FILING / CURING THE DEFECTS) Diary No(s). 36222/2018 (XIV) IA No. 151349/2018 - CONDONATION OF DELAY IN FILING) SLP(C) No. 29577/2018 (XIV)) T.P.(C) No. 259/2020 (XVI-A) (FOR ADMISSION and I.R. and IA No.21708/2020-STAY APPLICATION) T.P.(C) No. 264/2020 (XVI-A) (FOR STAY APPLICATION ON IA 22824/2020 IA No. 22824/2020 - STAY APPLICATION) T.P.(C) No. 227/2020 (XVI-A) (FOR ADMISSION and IA No.19813/2020-EX-PARTE STAY) T.P.(C) No. 232/2020 (XVI-A) (FOR ADMISSION and IA No.20025/2020-EX-PARTE STAY) Date : 02-03-2020 These petitions were called on for hearing

today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MR. JUSTICE VINEET SARAN For Petitioner(s) Ms. Madhavi Divan, ASG Mr. Sahil Monga, Adv.

Ms. Vishakha, Adv.

Mr. Parthiv K. Goswami, Adv. Mr. Gurmeet Singh Makker, AOR Mr. Arjun Harkauli, AOR Mr. Aman Sinha, Sr. Adv.

Mr. Sanjai Kumar Pathak, AOR Mrs. Nupoor Sinha, Adv.

Ms. Shashi Pathak, Adv.

Mr. Arvind Kr. Tripathi, Adv. Mr. Mohinder Jit Singh, AOR For Respondent(s) Ms. Geeta Luthra, Sr. Adv.

Ms. Anjana Ahluwalia, Adv. Mr. Tanuj Khurana, Adv.

Ms. Anjali Chauhan, Adv.

Ms. Ria Sachthey, Adv.

Ms. Kalpana Chauhan, Adv.

Mr. Nar Hari Singh, AOR Mr. Satpal Singh, AOR Mr. K.K.Rai, Sr. Adv.

Mr. S.M.Deenadayalan, Adv. Ms. T. Archana, AOR Mr. Anshul Rai, Adv.

Ms. Sreoshi Chatterjee, Adv. Mr. Ramkrishna Veerendra, Adv. Mr. D.P.S. Rajesh, Adv.

Mr. Chandrashekhar A. Chakalabbi, Adv. Mr. Awanish Kr., Adv.

Mr. Aditya Ranjan, AOR Mr. D. S. Chauhan, AOR Mr. Satyajit A. Desai, Adv. Ms. Anagha S. Desai, AOR Mr. Rahul Pratap, AOR Mr. Gurmeet Singh Makker, AOR Mr. Arjun Harkauli, AOR Ms. Aarzoo Khurana, Adv.

Mr. Prateek Garg, Adv.

Mr. Amar Nath Gupta, Adv.

Mr. Rameshwar Prasad Goyal, AOR Mr. Kamlesh Kr. Maurya, Adv. Mr. Santosh Kr. Sahu, Adv.

Mr. Meet Malhotra, Sr. Adv. Mr. Swetank Shantanu, AOR Mr. Pratap Shanker, Adv.

Ms. Shilpi Shrivastava, Adv. Mr. Ravi S.S. Chauhan, Adv. Mr. Anurag Mathur, Sr. Adv. Mr. Sachin Dutta, Sr. Adv.

Mr. Mohinder Jit Singh, AOR Mr. Koushik Ghosh, Adv. Ms. Beenashaw Soni, Adv.

Mr. Romy Chacko, AOR Mr. Chandan Kr. Mandal, Adv. Mr. Shakti Chand Jaiswal, Adv. Mr. P.S. Patwalia, Sr. Adv. Ms. Meenakshi Arora, Adv.

Ms. Shefali Jain, Adv.

Mr. Aseem Mehrotra, Adv.

Mr. Ali Mushtaq Nawazish, Adv. Ms. Harshika Verma, Adv.

Ms. Vaishali gupta, Adv.

Ms. Chitra, Adv.

Mr. Rajesh Prasad Singh, AOR Mr. R.S. Gerwal, Adv.

Mr. Hitesh Kr. Sharma, Adv. Ms. Meenakshi Gerwal, Adv. Mr. Arvind Kumar Gupta, AOR Mr. Akhileshwar Jha, Adv.

Mr. Vikas Mehta, AOR Mr. Devmani Bansal, Adv.

Mr. Vikas Kr., AOR Mr. Awanish Kumar, AOR Mr. Jagjit Singh Chhabra, AOR Mr. Amit Kumar, AOR Mr. Santosh Kumar - I, AOR Ms. Tanvi Raina, Adv.

Mr. Mayank Goel, AOR Mr. K.V. S. Rama Chari, Adv. Mr. S.K. Rajora, Adv.

Mr. T. ramamurty, Adv.

Ms. K. Venkataswamy, Adv.

Mr. Abhijat P. Medh, AOR Unuc Legal Llp, AOR Mr. A.N. Gupta, Adv.

Ms. Sujeeta Srivastava, AOR Ms. Abha R. Sharma, Adv.

Mr. D.S. Parmar, Adv.

Mr. C. S. N. Mohan Rao, AOR Mr. S.N. Singh, AOR Ms. Seema, Adv.

Dr. Atul Singh, Adv.

UPON hearing the counsel the Court made the following O R D E R In these matters, we heard Mr. Aman Sinha, learned Senior Advocate for Delhi University and Mr. P.S. Patwala, learned Senior Advocate for some of the employees of Delhi University at considerable length.

Though their submissions are concluded, certain doubts have arisen after the learned counsel invited our attention to various documents on record.

Some of those documents are (i) letter dated 8.8.2001 from University Grants Commission (for short “UGC”) to the Joint Secretary, Government of India, Ministry of Human Resource Development (for short “MHRD”,) placed on record at pages 46-47 of the Convenience Volume, (ii) the response dated 24.10.2002 appended at page 48 of the Convenience Volume, from the MHRD to the aforesaid letter dated 8.8.2001; (iii) the letter dated 13.10.2016 written by Delhi University to the Secretary, Department of Higher Education, MHRD appended at page 58 of the Convenience Volume) and (iv) the letter dated 2.3.2019 from the Government of India (Ministry of Finance), at page 63 of the Convenience Volume, in so far as certain institutions like LIC and other Insurance Companies are concerned.

One of the basic issues that arises in the matter is whether in terms of Para 3.1 of O.M. dated 1.5.1987 was it competent for the concerned institutions/authorities to keep on extending the period within which options could be exercised by the concerned employees.

It is in this light that the Division Bench of the High Court in paragraphs 26 and 27 referred to certain facts including the stand of the Central Government constituted in permitting several members and employees in other institutions including educational institutions such as IIT, Kanpur to give option by extending dates for switch over till 31.12.2003.

All these communications do not spell out any consistent stand on the Central Government. Though the Central Government and the UGC are parties to the present list, no stand has been taken on record by filing any appropriate affidavit.

In the circumstances, we call upon Central Government (Ministry of HRD) as well as the UGC to file affidavits within seven days from today and place their stand on record giving complete details.

Delhi University is also called upon to place on record following information by way of an affidavit:

(a) How many employees who were employed before 01.01.1986, had opted to be covered under CPF Scheme by 30.09.1987.

(b) How many employees exercised the option to be part of CPF Scheme after 30.09.1987 but within first two extensions allowed by Delhi University.

(c) How many employees who had opted to be part of CPF, exercised the reverse option granted to them and opted to be under GPF.

(d) How many writ petitioners wanted similar benefit and extension of some facilities as was granted to the employees referred to in Para (c) above.

(e) How many employees are presently in service who answer description that they are employees from before 1.1.1986 and are still part of CPF Scheme.

Copies of the communications referred to in the earlier part of the order shall also be supplied alongwith a copy of this order to the Central Government and the UGC.

Let one complete set of paper book be also supplied to the Central Agency.

List on 20.3.2020 at 2.00P.M. (INDU MARWAH) (PRADEEP KUMAR) COURT MASTER (SH)
BRANCH OFFICER