

Sports Authority Of India vs Dr. Kulbir Singh Rana on 4 March, 2025

Author: Sudhanshu Dhulia

Bench: Sudhanshu Dhulia

REPORTABLE

2025 INSC 319

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO(S) .2289–2291 OF 2025

SPORTS AUTHORITY OF INDIA & ANR.

...APPELLANT(S)

Versus

DR. KULBIR SINGH RANA

...RESPONDENT(S)

WITH

CIVIL APPEAL NO(S) . 2296–2298 OF 2025

JUDGMENT

SUDHANSHU DHULIA, J.

1. Sports Authority of India (for short ‘SAI’) was created in the year 1984 and was registered as a society under the Societies Registration Act, 1860. The necessity for creating a society is reflected in a resolution dated 25th January, 1984 of the Department of Sports, Government of India, wherein the objective of the society was stated to be ‘promotion of sports and games in India’. SAI is directly under the administrative and financial control of the Government of India.

2. Rules have been framed for regulating the method of recruitment to the post of Sports Sciences & Sports Medicine Staff (including the post of physiotherapist), which are known as Sports Authority of India (Sports Sciences and Sports Medicine) Staff Recruitment Rules, 1992 (hereinafter ‘1992 Rules’) and under the Sports Authority of India (Service) Bye Laws and Conditions of Service Regulations 1992, where employees can also be directly recruited as per provision 81. There is also a provision which is defined as “initial constitution” under the 1992 Rules which reads as under:

‘4) INITIAL CONSTITUTION:

(a) All the employees in SAI working on ad hoc basis on any of the post mentioned in the schedule on the date these rules come into force shall, after the approval by a duly constituted Committee, shall be deemed to have been appointed under these rules with effect from a date as may be decided by the said Screening Committee in each

individual case.

(b) All the employees working on a regular basis on any of the post contained in the schedule to these rules will be deemed to have been appointed under these rules with effect from the date of initial appointment to the post.' Fresh set of rules were approved in 2022 for regulating recruitment to the posts of Executive cadre, called the Sports Authority of India Executive Cadre (Grade A) Staff Recruitment Rules 2022 (hereinafter '2022 Rules'), which contain a similar provision regarding "initial constitution", which reads as under:

'4. Initial Constitution: □All the employees in SAI 1 METHOD OF RECRUITMENT: Recruitment to a post under the Society may be made by any one or more of the following methods: (a) Promotion (b) Direct Recruitment (c) Deputation (d) By re□ employment of a retired employee of the Society or Central/ State Government or any other Organization. (e) On Contract for a specified period of technical personnel on specific terms as approved by Vice□Chairperson, SAI working on any of the post mentioned In the Annexure□ on the date these rules come into force shall be deemed to have been appointed under these rules.'

3. Under the above provision, an employee, who is working on ad hoc basis on any post mentioned in the 1992 Rules shall be deemed to be appointed under the said rules, after being duly approved for the "initial constitution" of SAI. In other words, he/she is not merely a daily wage or a contractual employee, but an employee of SAI. The respondent was continuing on contractual basis as a physiotherapist (grade II) since 20.02.2021.

4. The 2022 Rules were notified and to bring into effect the cadre restructuring made therein, instead of renewing their contracts, the department advertised their vacancies which were to be filled by another set of physiotherapists on contractual basis. The respondents' name did not figure in the list. All persons earlier appointed on an ad hoc basis (including the respondents herein) were given an opportunity to apply against the newly sanctioned posts. The respondents participated in the selection process and on 09.02.2023, SAI issued a circular making a public disclosure of non□ eligible candidates for High Performance Analysts on a contractual basis. This recruitment process was challenged by the respondents before the Central Administrative Tribunal, Principal Bench at New Delhi, by filing an Original Application, which was allowed on 04.11.2023, and the following directions were made:

"28. Notwithstanding the above, the case remains that the applicants possessed the prescribed qualifications and they have been selected through a process of open competition, therefore, their appointment was not 'illegal' but irregular and therefore they should be considered as part of the initial constitution as laid down in 2022 rules. Therefore, the right invested in the employees working on ad hoc basis remained intact. In this regard, we also placed reliance on S.S. Moghe and Others v Union of India and others wherein it was held that when a new service is proposed to be constituted by the Government, it is fully within the competence of the

Government to decide as a matter of policy the sources from which the personnel required for manning the service are to be drawn.

29. In the facts and circumstances of the case, the OA is allowed with direction to the competent authority amongst the respondents to consider the applicants as "Initial Constituent" as per 2022 (4) Rules notified on 03.08.2022 and pass an appropriate reasoned order in this regard as expeditiously as possible and in any case within 8 weeks of the receipt of a copy of this order and till service of such order(s), the applicants will not be terminated. Consequently the termination orders dated 09.02.2023 and 10.02.2023 are quashed. No costs.'

5. This order was challenged by SAI before the Delhi High Court. During arguments, a statement was made by the counsel appearing for SAI that they would not like to press the Writ Petition on merits and they would be satisfied if some more time is given to them to comply with the directions of the Tribunal for considering the case of respondents as "initial constituents" as per Section 4 of the 2022 Rules.

6. The Writ Petition was disposed of on 28.02.2024 with the directions as prayed by SAI before the High Court. Reference to the following paragraphs of the High Court's order becomes necessary:

"3. After some arguments, learned counsel for the petitioners prays that instead of pressing the present petitions on merit, the petitioners would be satisfied if the time granted by the learned Tribunal for considering the case of the respondents as 'Initial Constituents' as per 2022(4) Staff Recruitment Rules is extended by eight weeks.

4. Learned counsel for the respondents has no objection to this limited request.

5. In the light of the aforesaid, the writ petitions along with pending applications stand disposed of by extending the time granted by the learned Tribunal to the petitioners for passing orders after considering the case of the respondent as 'Initial Constituents' as per 2022(4) Staff Recruitment Rules dated 03.08.2022 by eight weeks from today.

6. Needless to state, this court has not expressed any opinion on merits of the rival claims of the parties."

7. Their case for "initial constituents" was not considered by SAI, but instead it filed two recall applications against the above order of the High Court dated 28.02.2024.

8. On the other hand, respondent filed a contempt petition before the Tribunal (being Contempt Petition No. 140 of 2024) for wilful disobedience of order dated 04.11.2023, passed by the Tribunal.

9. The High Court, however, dismissed the recall applications and the reasons assigned were that it is not denied by the counsel appearing for SAI that the statement made by the counsel seeking time to comply with the order of the Tribunal, was made without the instructions from SAI and neither did SAI file an affidavit stating that they have not instructed their counsel to make such a statement, instead the only ground which was taken by the counsel for SAI was that they had actually misunderstood the order of the Tribunal. This plea was rejected at the very threshold by the High Court, and in our view rightly so. The relevant portions of the order in the recall application are reproduced below:

‘21. In that view of the matter, the explanation tendered by the learned Counsel in his affidavit dated 10 September 2024 that his statement, as recorded in para 3 of the order dated 28 February 2024, was based on an erroneous understanding of the order dated 4 November 2023 of the Tribunal, cannot be accepted.

22. In our opinion, the only escape from a concession granted by a Counsel on behalf of his client before the Court is if the client states, on affidavit, that the Counsel was not instructed or authorised to make such a concession. Even in that circumstance, it would be for the Court to take a view as to whether to allow the Counsel to resile from the concession.

23. It is not the case of the SAI that the concession made by Counsel, as recorded in para 3 of the order dated 28 February 2024 was beyond the instructions granted to the Counsel or made without authorisation

24. The only ground on which a volte face, from the said statement, is now being attempted, is that the Counsel misunderstood the order passed by the Tribunal. Such a contention, in our view, cannot constitute a basis to recall the order dated 28 February 2024, especially since, as we have already noted, the undertaking in para 3 was in the terms in which the directions had been issued by the Tribunal in para 29 of its order dated 4 November 2023.

25. It is not the case of SAI, in these applications, that the order dated 28 February 2024 is erroneous in any way, or that the Court was under a wrong impression while passing it. Nor do these applications seek to contend that there was some fact which could not be brought to the notice of the Court on 28 February 2024, which SAI now seeks to bring to the Court's notice. Nor, even, is it SAI's case that there have been any subsequent developments — except the filing of the contempt petition by the respondents — as would justify a revisitation of the order dated 28 February 2024.’ The recall applications were thus dismissed, and that order is under challenge before this Court.

10. This petition ought to be dismissed on the mere ground that once the order has been passed on a kind of a compromise or concession given by a party, that party

cannot turn back and challenge the order before a higher court, unless it is a case of fraud or deception. On principle as well as on law, this is not permissible.

11. Even otherwise, the appellants do not have any case, and the Original Application of the respondents has been rightly allowed. We totally agree with the reasoning given by the Tribunal.

12. At this stage, let us also elaborate upon the findings of the Tribunal with regard to the status of the respondents as “initial constituents” of SAI.

The Tribunal took note of the provision governing “initial constitution” in the 1992 Rules as well as 2022 Rules. In that context, it held that while notifying the 2022 Rules, the 1992 Rules were not superseded insofar as the definition of “initial constitution” is considered, and as such, both rules continue to be in operation.

Regarding the status of the present respondents as “initial constituents”, the Tribunal at the very outset noted that their recruitment was done as per relevant regulations following due selection process. The Tribunal then came to the conclusion that the appointments of the respondents were not ‘illegal’ but only irregular. Therefore, they are entitled to be considered as part of the “initial constitution” of SAI as laid down in the 2022 Rules. Ultimately, the Tribunal directed SAI to consider the case of applicants as “initial constituents” as per the 2022 Rules.

13. For all practical purposes, once an employee is considered as an “initial constituent” of SAI, it would mean that he is no longer to be treated as a contractual employee but as a regular employee, who comes under direct enrolment/control of SAI. The respondents have served SAI in the past, and as stated above, there is a provision under the rules under which they can be considered as “initial constituents” pursuant to which, the Tribunal gave such directions. The concession regarding their status as “initial constituents” has already been made by SAI before the High Court.

14. For the reasons stated hereinabove, we see no merit in these appeals and therefore, the appeals stand dismissed.

15. Pending application(s), if any, shall stand disposed of.

.....J. [SUDHANSHU DHULIA]J. [AHSANUDDIN
AMANULLAH] New Delhi;

March 04, 2025.

ITEM NO.1502

COURT NO.12

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2289-2291/2025

SPORTS AUTHORITY OF INDIA & ANR.

Appellant(s)

VERSUS

DR. KULBIR SINGH RANA

Respondent(s)

(IA No. 293804/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) WITH C.A. No. 2296-2298/2025 (XIV-A) FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 295628/2024, IA No. 295628/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT Date : 04-03-2025 These matters were called on for pronouncement of Judgment today.

For Appellant(s) : Mr. Rakesh Kumar Khanna, Sr. Adv.

Mr. Sandeep Kumar Mahapatra, Adv.

Mr. Sugam Kumar Jha, Adv.

Mr. Sreedass K. P., Adv.

Mr. Aditya P. Khanna, Adv.

Mr. Raghav Tandon, Adv.

Ms. Awantika Manohar, AOR For Respondent(s) : Ms. Kamini Jaiswal, Adv.

Ms. Rani Mishra, Adv.

Ms. Sridevi Panikkar, Adv.

Mr. Abhimanue Shrestha, AOR Mr. Pritesh Patni, Adv.

Hon'ble Mr. Justice Sudhanshu Dhulia pronounced the reportable Judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice Ahsanuddin Amanullah.

The appeals are dismissed.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA) (RENU BALA GAMBHIR) ASST. REGISTRAR-CUM-PS ASSISTANT REGISTRAR (Signed reportable Judgment is placed on the file)