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SUPREME COURT CASES

(1998) 9 SCC

or that they are perverse. Accordingly, the Tribunal declined to interfere with the order of removal passed by the disciplinary authority confirmed by the appellate authority.

6. We have heard learned Senior Counsel for the appellant for some time who took us through the orders under appeal. We also heard the learned Senior Counsel for the respondents.

7. After perusing the order of the Tribunal, we are of the view that though it is possible to take another view in this matter, that will not be a ground for interfering with the orders passed in the disciplinary proceedings. Accordingly, we are not satisfied that there is any case for interference.

8. The appeal is dismissed. However, there will be no order as to costs.

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(BEFORE S. SAGHIR AHMAD AND G.B. PATTANAIAK, JJ.)

G.R. CHAVAN AND OTHERS

.. Appellants;

Versus

STATE OF MAHARASHTRA AND OTHERS

.. Respondents.

Civil Appeals Nos. 4465-67 of 1986, decided on January 6, 1998

Service Law — Reservation — Provision in Government Resolution dated 23-5-1974 for reservation in favour of SCs, SC converts to Buddhism, STs, Denotified Tribes and Notified Tribes at promotional stage to all Class I, Class II, Class III and Class IV posts in grades or services in which the element of direct recruitment did not exceed 50% — Validity — Upheld — However, if in implementing the policy of reservation the quota was exceeded, the appellant was at liberty to approach the appropriate court — Constitution of India, Arts. 16(4), (4-A) & (1) — Government Resolution dated 23-5-1974 — Validity — Promotion — Reservation (Paras 1 and 2)

Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385, applied

Appeals dismissed

H-M/19138/SL

Chronological list of cases cited

on page(s)

1. 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385,
Indra Sawhney v. Union of India

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ORDER

1. This appeal is directed against the judgment of the Full Bench of the Bombay High Court which had also granted leave to appeal to this Court under Article 134-A of the Constitution.

2. The writ petition was filed in the Bombay High Court challenging the Government Resolution dated 23-5-1974, as amended from time to time, providing for reservation in favour of Scheduled Castes, Scheduled Caste converts to Buddhism, Scheduled Tribes, Denotified Tribes and Notified Tribes at promotional stage to all Class I, Class II, Class III and Class IV posts in grades or services in which the element of direct recruitment did not exceed 50%. The writ petition was dismissed by a Full Bench of the High

STATE OF BIHAR v. RAMNATH PRASAD

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Court by its order dated 14-1-1986 and the Government Resolution was upheld.

- a* 3. The question raised in these appeals is concluded by the decision of this Court in *Indra Sawhney v. Union of India*¹. The appeals are, therefore, dismissed with the observation that if in implementing the policy of reservation, the quota is exceeded, it would be open to the petitioner to approach the appropriate court.

b

(1998) 9 Supreme Court Cases 49

(BEFORE G.T. NANAVATI AND V.N. KHARE, JJ.)

STATE OF BIHAR

.. Appellant;

Versus

c RAMNATH PRASAD AND OTHERS

.. Respondents.

Criminal Appeals Nos. 357-58 of 1987[†], decided on December 9, 1997

d **A. Penal Code, 1860 — S. 304 Part II — Poisoning cause of death — Poisonous substance given by accused to deceased and his companions openly in presence of others — Prosecution failing to establish any strong motive of the accused — Accused having no enmity with the victims — Held, from facts it could not be inferred that the accused had given the poison to the deceased with the intention to cause his death — But he ought to have known that as what had been given to the deceased and others was a poisonous substance, it was likely to cause grievous hurt and even death — Hence accused guilty of offence under S. 304 Part II and S. 326 — For the offence punishable under S. 304 Part II he is ordered to suffer rigorous imprisonment for five years — For the offence punishable under S. 326 he is ordered to suffer rigorous imprisonment for four years in respect of each of the persons to whom hurt was caused (Para 15)**

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f **B. Criminal Trial — Circumstantial evidence — Causing death by poisoning — Prosecution case that accused gave powder-like substance as ‘prasad’ to deceased and others who were sitting on a relay fast and that after consuming that ‘prasad’ the deceased and others fell seriously ill and ultimately deceased died — Doctors being busy in treating the ailing persons at night, held, circumstances were such that none approaching the police till those persons were sent to hospital cannot lead to an inference that nobody knew till filing of the FIR next morning at 5.00 a.m. — Merely because no witness had positively stated that the doctors had made the victims drink water to wash their bowels, held, it was not proper to jump to the conclusion that possibly the persons sitting on relay fast had consumed some food and plenty of water earlier than the incident of offering of the ‘prasad’ and that therefore, it could not be said that the symptoms of poisoning were because of eating ‘prasad’ — Findings of High Court based on misreading of evidence and were unreasonable — On facts, held, High Court erred in holding that the prosecution failed to establish its case — Penal Code, 1860, S. 304 Part II — Poisoning case (Para 10)**

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R-M/ATM/18983/SR

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¹ 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385

[†] From the Judgment and Order dated 4-7-1985 of the Patna High Court in Crl. As. Nos. 49 and 20 of 1981 and 493 of 1980