

**PROCEEDINGS OF THE COURT CASES MEETING HELD WITH  
LAW OFFICERS AND CHIEF LAW ASSISTANTS ON 28.02.2020**

Shri N. Murali Krishna, Sr. Law Officer  
Shri M.V. Ramana, Law Officer

Shri K. Gopinath, CLA/Hqrs  
Shri M.K. Shaji, CLA/Hqrs  
Shri V. Apparao, CLA/Hqrs  
Ms. M.N. Vijitha, CLA/PCPO/SC  
Shri S. Venkateshwarlu, CLA/Engg./SC  
Shri A. Bhagwat Prasad, CLA/G/SC  
Shri S. Srinivas, CLA/GNT  
Shri Syed Amjad Ali, OS/Law Cell

**Negligence of victim cannot be a contributing factor under proviso to Section 124A for denying compensation:** Shri V. Apparao, CLA/HQ presented the judgement dated 14<sup>th</sup> February 2020 of Nagpur Bench, Bombay High Court in CA No.1072/2019 in the matter of Smt. Meerabai & Ors. Vs. Union of India. In the OA filed by the appellants RCT Nagpur held that the deceased died while alighting the train where there was no stoppage, due to his own negligence, therefore, Railways is not liable to pay any compensation. Citing the law settled by Apex Court Union of India Vs. Rina Devi (2018 AIR(SC) 2362), the High Court allowed the appeal stating that the findings recorded by the Tribunal that the deceased boarded a wrong train and died due to his own negligence is not sustainable.

**Closure of the criminal case cannot vitiate the departmental proceedings :** Shri S.Venkateshwarlu, CLA has presented the judgement dated 07.12.2018 in WP(C) 580/2016 in the matter of Gurcharan Singh Sodhi Vs Railway Board & Anr. The High Court while dismissing the case rejected the claim of the Petitioner and observed that there is statutory rule for continuation of proceedings after superannuation. The Court also stated that it is well established in service jurisprudence that criminal proceedings and departmental proceedings operate in two different fields.

**Administration has to stipulate the parameters for the purpose of considering whether a post is Safety or Non-Safety; not courts:** Shri Amjad Ali, OS/law Cell and Ms. Vijitha, CLA/Gaz/HQ have presented the judgement of CAT/HYB Bench dated 31<sup>st</sup> January 2020 in OA No.020/686/2014 in the matter of B. Surendra Kumar Vs. Union of India. The Bench dismissed the OA stating that it is not for the courts and Tribunals; administration only has to decide the parameters for requirement of health conditions for a particular post.

**The Court/Tribunal in its power of judicial review does not act as appellate authority:** Shri M.K. Shaji, CLA/HQ presented the judgement dated 14<sup>th</sup> February 2020 in Civil Appeal No.8071 of 2014 in the matter of The State of Karnataka & Anr. Vs. N. Gangaraj. The Apex Court allowed the appeal and stated that once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by re-appreciating evidence as if the Courts are the Appellate Authority. Courts will not interfere with the findings of facts recorded in departmental enquiries except where such findings are based on no evidence or where they are clearly perverse.

**Applicability of Section 438 for offences under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:** Shri S. Srinivas, CLA/GNT has presented the judgement dated 10<sup>th</sup> February 2020 of the Apex Court

in WP(C) No.1016 of 2018 in the matter of Prithvi Raj Chauhan Vs. Union of India & Ors. The Apex Court while disposing of the petitions, held that concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by section 18 and 18A (i) shall not apply. The Apex Court further stated that the court can, in exceptional cases, exercise power under section 482 Cr.PC for quashing the cases to prevent misuse of provisions on settled parameters.

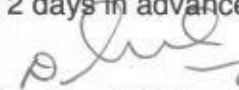
**State cannot plead adverse possession - Acquisition of Land by State without following due process of Law:** Shri K. Gopinath, CLA/HQ presented the judgement of the Apex Court dated 8<sup>th</sup> January 2020 in CA No.60-61 of 2020 in the matter of Vidya Devi Vs. The State of Himachal Pradesh & Ors. The Apex Court observed that in this case, the State took over possession of the land of the Appellants without any sanction. The appellant was compulsorily expropriated of her property without being paid any compensation. The Court exercising the extraordinary jurisdiction under Articles 136 and 142, directed the State to pay compensation

**Alteration of selection method after initiating Selection Process:** Shri A. Bhagwat Prasad, CLA/SC has presented the judgement dated 7<sup>th</sup> February 2020 of Supreme Court in CA No.1215 of 2020 in the matter of Nitesh Kumar Pandey Vs. State of Mandhya Pradesh & Ors. In the subject selection to the post of Gram Sahayak in Panchayat of Rewa Dist.

The candidates who were previously in the merit list before the conduct of computer efficiency test but were later dropped from the select list have taken legal course have filed WPs before the High Court. The Single Judge holding that the method of selection was altered after the selection process had commenced, which is not permissible and allowed the Writ Petitions. The candidates who got benefitted from introduction of computer test have filed Writ Appeals before the Division Bench which were dismissed by Division Bench of High Court.

In the Civil appeal, the Supreme Court agreed with the decision of the High Court holding that mere indication of a date for computer test and participation therein cannot be considered as the candidate acceded to the same and estop challenging the order. The Apex Court, therefore dismissed the appeal, holding that the present case cannot be considered as a case of approbate and reprobate.

Next Meeting will be held on 27<sup>th</sup> March, 2020. All the members are requested to come prepared to the CLA's meeting and present at least one case. Brief of the case may be emailed to loscrhq@gmail.com at least 2 days in advance.

  
(N. Murali Krishna)  
Sr. Law Officer

03/3/2020

G.265/V/IV/Misc./Meeting/2020

Date: 03.03.2020

To

All ADRMs, CCO/SC, PCPO/Hqrs, Sr.LO/P/Hqrs, LO/HQ,  
All CLAs – for information please.