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JUDGEMENTOPEDIA

(Learning Judgements For A Living)

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- 5 Banka Sneha Sheela vs. The State of Telangana, rep. by Principal Secretary, Home Department and others.



Can the qualifications prescribed in a job post by the Government be changed in the middle of the selection process without the change being publicly notified?

CONTEXT: : The District Employment Officer, Bettiah, Bihar published an advertisement inviting applications for the post of Amins on 13th October 2011. The cut-off date was fixed at 40 years as on 1st January 2011 for the economically backward class. The appellant was rejected as the qualification was changed to 40 years as of 1st November 2011 without making a public advertisement of the change.

1 The Supreme Court Bench set aside the High Court order and directed the defendants to appoint the appellant to the post of Amin w.e.f 27th June 2015. The appellant would be entitled to all notional benefits except for actual wages.

2 The Court held that it is settled law that it is not open for an employer to change the qualifications prescribed in an advertisement midstream, during the course of the ongoing selection process as any such action would be hit by the vice of arbitrariness.

3 Precedent cited for settled law: Mohd.Sohrab Khan Vs Aligarh Muslim University and Others (2009) 4 SCC 555

ANIL KISHORE
PANDIT VS. STATE
OF BIHAR AND
OTHERS
[2024 INSC 188;
CIVIL APPEAL
NO.1566 OF 2024]

The NCDRC addressed the jurisdiction for motor vehicle damage claims under the Motor Vehicles Act, 1988

CONTEXT: The NCDRC addressed the jurisdiction of consumer forums to entertain claims for motor vehicle damages. The case involved a bus fire leading to passenger luggage loss.

1 The NCDRC ruled that claims for motor vehicle damages fall under the exclusive jurisdiction of the Motor Accidents Claim Tribunal (MACT) as per Section 165 of the Motor Vehicles Act.

2 The Commission cited Supreme Court's previous rulings that the Motor Vehicles Act is a special law concerning claims of compensation arising from motor vehicle accidents and therefore prevails over general consumer protection laws like the Consumer Protection Act of 1986 affirming that motor accident claims must be adjudicated by MACT, not consumer forums.

3 The NCDRC set aside the State Commission's order, affirming the District Forum's decision of holding the bus agency liable without involving the insurance company.

PATEL TOURS AND TRAVELS V. ROYAL SUNDARAM ALLIANCE INSURANCE CO. LTD.
[LAWS(NCD)-2024-3-7]

MOTOR VEHICLES ACT, 1988

How did the Supreme Court address the rights of Hindu widows to undivided joint family property under the Hindu Succession Act of 1956?

CONTEXT: The Supreme Court addressed the issue of a Hindu widow's rights to undivided joint family property under Section 14(1) of the Hindu Succession Act, 1956. The case involved a widow's claim to property and a subsequent claim by her adopted son.

- 1 The Court clarified that for full ownership under Section 14(1), a Hindu female must both possess and acquire the property.
- 2 The Supreme Court emphasised that acquisition must be through specific means such as inheritance, partition, maintenance, gift, or purchase.
- 3 The Court reiterated that a pre-existing right is essential for conferring full ownership under Section 14 of the Hindu Succession Act.
- 4 The Court ruled that a claim for partition based on an inheritance from a widow cannot be maintained without possession of the property.

MUKATLAL V.
KAILASH CHAND
[2024 SCC ONLINE
SC 964]

HINDU SUCCESSION
ACT, 1956

Sexual assault under Section 7 of the POCSO Act is the “sexual intent” and not the “skin-to-skin” contact with the child

CONTEXT: When interpreting a statute, it must be used that benefits the purpose of the legislation while preventing its potential abuse. Applying the maxim 'Ut Res Magis Valeat Quam Pereat', the Court emphasised that interpreting 'physical contact' as 'skin-to-skin contact' would be absurd.

- 1 The elementary principle of interpreting or construing a statute is to gather the mens or sententia legis, the true intention of the Legislature.
- 2 Restricting the interpretation of the words “touch” or “physical contact” to “skin-to-skin contact” would not only be a narrow interpretation of the provision contained in Section 7 of the POCSO Act, but it would lead to an absurd interpretation of the said provision.
- 3 The most important ingredient for constituting the offence of sexual assault under Section 7 of the Act is the “sexual intent” and not the “skin-to-skin” contact with the child.
- 4 Accordingly, the accused was convicted for the offences punishable under Section 8 of the POCSO Act and under Sections 342, 354 and 363 of the IPC.

**ATTORNEY
GENERAL FOR
INDIA V. SATISH
AND ANOTHER
[CRIMINAL APPEAL
NO. 1410 OF 2021 @
SPECIAL LEAVE
PETITION (CRL) NO.
925 OF 2021]**

**PROTECTION OF
CHILDREN FROM
SEXUAL OFFENCES
ACT, 2012**

Can the personal liberty be taken away for safe guarding the public good by the procedures established by law?

CONTEXT: The wife of the accused filed a writ of habeas corpus to provide relief for the detenu accused of White-collar crime under this Act. The accused got money from the public and invested in the stock market by providing false promises of high returns.

① The personal liberty of an individual, protected and preserved by law, can also be taken away by following the procedure established by law when it is used to jeopardise the public good and not merely private interests.

② The modus operandi of the detenu in the alleged offences committed quickly would undoubtedly disturb the public peace and tranquillity.

③ The detenu is likely to commit similar offences in the future, which could pose a threat to public order. Thus, the writ petition was dismissed.

BANKA SNEHA
SHEELA VS. THE
STATE OF
TELANGANA, REP.
BY PRINCIPAL
SECRETARY, HOME
DEPARTMENT AND
OTHERS.
[WP NO. 20146 OF
2020]

TELANGANA ACT,
1986