

K. V. Narasimha Rao and Others

Vs

Union of India and Others

Civil Appeals Nos. 1262-63 with Civil Miscellaneous Petition No. 15254 of 1980; Special Leave Petitions Nos. 8693-97 of 1980; Writ Petition No. 890 of 1979; Civil Appeal No. 2290 of 1980 and Special Leave Petitions Nos. 7624-26 of 1980

(A.P. Sen, E.S. Venkataramiah JJ)

05.02.1981

ORDER

A. P. SEN, J. -

1. Having heard the arguments at a considerable length ranging over several days, we are distressed to find that the controversy relating to inter se seniority of Assistant Engineers of the public Works Departments of the State of Andhra Pradesh coming from Andhra and Telengana regions is still a live issue after a lapse of nearly 25 years.

2. Under the States Reorganisation Act, 1956 the question relating to equation of posts and integration of service of employees of the erstwhile States of Andhra and Hyderabad had to be decided finally by the Central Government under sub-section (5) of Section 115. In *N. Subba Rao v. Union of India* this Court upheld the order of Andhra Pradesh High Court in *k. Anant Reddy v. State of A. P.* holding that the order of the Central Government dated December 22/24, 1966 was made without giving any opportunity to the officers of the Hyderabad State of making any representation against the course of action and, therefore, the order was liable to be quashed. The court, however, set aside the observations of the High Court as to whether the services of the Andhra 1956. In dealing with the question, the observed : (SCC p. 871 : SCC (L & S) p. 47, para 35)

It is not necessary to express any opinion in these appeals as to whether the services of Andhra State officers were stopgap or fortuitous arrangements. Under the State Reorganisation Act power is conferred on the Central Government to bring about the integration of service in the State of Andhra Pradesh by ensuing fair and equitable treatment to all persons affected by the provisions of Section 115 of the Act,

and the court made the following observations in the penultimate para : (SCC p/ 873 : SCC (L & S) p. 49, para 39)

The Central Government under the Act is required to effect the integration of services of officers in the Telengana area an officers of the Andhra State. The Central Government will have to decide whether the regularisation of promotions of Andhra Engineers and relaxation of rules and retrospective regularisation was permissible. The Central government will determine finally the principles governing the equation of posts and the preparation of common gradation lists.

3. The court accordingly made the following direction : (SCC p. 873 : SCC (L & S) 49, para 40)

In the result, the order of the High Court quashing the decision of the Central Government, dated December 22/24, 1966 is upheld. The observations of the High Court on the temporary service of the Andhra officers to be stopgap or fortuitous arrangements are set aside equation of posts. The Central Government will determine the principles governing the question of posts. The Central Government will now proceed with the integration of services of Telengana area officers and Andhra State officers to make their representations.

4. We are constrained to find that the Central Government in dealing with the matter has left the question as to whether the appointment of the Andhra State Officers was stopgap or fortuitous or not undertermined. The findings arrived at by the Central Government are contained in Paragraph 5 of its order dated November 18, 1978, which, insofar as it is relevant, reads as follows :

The Government of India have decided that the final common gradation list of Assistant Engineers of the Public Works Department of Andhra Pradesh as on November 1, 1956 might be prepared by the basis of the following decisions.

(a).....

(b) (i) Retrospective regularisation will be recognised only in the case of those temporary Assistant Engineers of Andhra Pradesh who had on or before October 30, 1956 acquired the eligibility conditions prescribed under Rule 5 of the Special Rules, read with Rule 2(15) of the General Rules provided that they had been found fit for regularisation as Assistant Engineers by the Public Service Commission.

There is no specific finding reached as to whether the appointment of the officers of the erstwhile Hyderabad State was stopgap or fortuitous or not for the purpose of integration of services. Nor has the Central Government given any reason for any of its findings.

5. In these circumstances there is no other alternative but to direct the Central Government to decide the question of inter se seniority of these officers, in accordance with the principles formulated at the Chief Secretaries Conference for integration or service and equation of posts and in the light of the decision of this Court in *N. Subba Rao v. Union of India*, with advertence to the folding points is controversy :

(1) The Central Government will consider the rival contention of Andhra Officers and Telengana Area Officers as to whether the services of the Andhra Officers were on stopgap and fortuitous arrangements.

(2) The Ventral Government will have to decide whether the regularisation of promotions of Andhra Engineers and relaxation of rules and retrospective regularisation was permissible.

(3) Whether the retrospective regularisation and relaxation of rules will amount to any change in the conditions of service or will result in denial of fair and equitable treatment to any of the officers affected thereby.

6. The Central Government will reach a decision afresh after affording an opportunity to the officers concerned i. e. officers of the erstwhile States of Andhra and Hyderabad and submit its findings with reasons thereof to this Court within two months from today. The appeals shall, in the

meanwhile, stands adjourned since die. The parties will submit their objections, if any, to the findings of the Central Government within two weeks from the date of receipt of the findings of the findings. The Central Government will furnish to counsel appearing for the parties in these appeals a copy of its report. The appeals shall be listed for hearing on April 28, 1981 subject to overnight part heard. The government shall give reasons for its findings.

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