

B. R. Ramabhadriah

Vs

Secretary, Food and Agriculture Department, Andhra Pradesh and Others

Civil Appeal No. 2050 of 1973

(E.S. Venkataramiah, V.B. Eradi JJ)

30.07.1981

JUDGMENT

ERADI, J. –

1. This appeal preferred by special leave is against the judgment of a Division Bench of the Andhra Pradesh High Court setting aside the decision of a learned Single Judge of that Court and dismissing a writ petition filed by the present appellant.
2. The appellant, who was working as an officer of the Forest Department in the State of Andhra Pradesh, approached the High Court challenging the provisional integrated gradation list of Forest Officers of the former Andhra and Hyderabad States published under the provisions of the States Reorganisation Act, as annexure to a State Government Order dated January 27, 1962. The contentions raised by the petitioner in the writ petition were mainly two-fold. Firstly, it was urged that the inter se seniority between the appellant and respondent 6, both of whom originally belonged to the Andhra cadre, has been wrongly fixed in the provisional gradation list by showing respondent 6 as senior to the appellant, whereas the appellant was legally entitled to seniority over respondent 6. Secondly, it was contended that respondents 3, 4, 5, 7 and 8, who were officers allotted to the State of Andhra Pradesh from the Telangana region of the former Hyderabad State, had been erroneously assigned ranks above the appellant in the integrated gradation list in violation of the principles laid down by the Government of India for equation of posts and the fixation of inter se seniority between the persons drawn from the two sources.
3. By the time the writ petition came up for hearing before the learned Single Judge, the Central Government had already set right the appellant's grievance concerning his ranking and seniority in relation to respondents 3, 4, 5, 7 and 8. It therefore became unnecessary for him to pursue the second contention aforementioned and hence he pressed before a learned Single Judge only the plea concerning his claim for seniority over respondent 6. The learned Single Judge found that the contention put forward by the appellant that he was entitled to seniority over respondent 6 was well founded. Accordingly, the learned Judge allowed the writ petition and issued a writ of mandamus directing the State Government and the Government of India to modify the gradation list by showing the appellant senior to respondent 6.
4. Respondent 6 carried the matter in appeal before a Division Bench of the High Court by filing Writ Appeal 691 of 1970. The Division Bench took the view that since the prayer contained in the writ petition was for the issue of a writ of mandamus directing respondents 1 and 2 to forbear from implementing the provisional gradation list published along with the Government Order dated January 27, 1962, and inasmuch as the petitioner had not pressed the said prayer for quashing of the

list in so far as it related to the officers of Telangana region (respondents 3, 4, 5, 7 and 8), the writ petition should have been dismissed on that short ground and the question relating to inter se seniority between the petitioner and respondent 6 ought not to have been decided by the learned Single Judge. In this view, the Division Bench allowed the writ appeal, set aside the order passed by the learned Single Judge and dismissed the writ petition. The appellant has come up to this Court questioning the legality and correctness of the aforesaid reasoning and conclusion of the Division Bench.

5. It is true that the writ petition contained a prayer for the quashing of the gradation list in so far as it related to the inter se ranking of the petitioner vis-a-vis respondents 3 to 8 and the petitioner (appellant) had also sought the issuance of a writ of mandamus directing respondents 1 and 2 to forbear from implementing or acting upon the said gradation list. But, subsequent to the institution of the writ petition, the Central Government had refixed the ranks of respondents 3, 4, 5, 7 and 8 (Telangana Officers) and placed them below the appellant thereby redressing the grievance of the appellant in so far as it pertained to the ranking of the aforesaid respondents. It therefore became unnecessary for the appellant to pursue his claim for relief with respect to the ranks assigned to those five respondents. It was under those circumstances that the appellant submitted before the learned Single Judge of the High Court, at the time of final hearing of the writ petition, that he was pressing the writ petition only in so far as it related to his claim for seniority over respondent 6. We fail to see how the fact that the appellant had sought in the writ petition the issuance of a writ of mandamus directing respondents 1 and 2 to forbear from implementing or acting upon the provisional gradation list will operate to preclude him from seeking a lesser relief, namely, the quashing of the list only in so far as it pertains to the fixation of the inter se seniority between himself and respondent 6. The material facts and circumstances had undergone a substantial change subsequent to the filing of the original petition and it was in consequence thereof that it had become unnecessary for the petitioner to pursue his original prayer for the grant of a larger relief. Besides ignoring this crucial aspect, the Division Bench of the High Court has also lost sight of the well-established principle that in an action where a party has prayed for a larger relief it is always open to the Court to grant him any smaller relief that he may found to be entitled in law and thereby render substantial justice. The Court can undoubtedly take note of changed circumstances and suitably mould the relief to be granted to the party concerned in order to mete out justice in the case. As far as possible the anxiety and endeavour of the Court should be to remedy an injustice when it is brought to its notice rather than deny relief to an aggrieved party on purely technical and narrow procedural grounds. We do not, therefore, find it possible to uphold the view expressed by the Division Bench of the High Court that since the writ petition was not pressed in so far as it related to the officers belonging to the Telangana region the question of inter se seniority between the writ petitioner and respondent 6 should not have been considered by the Single Judge and the writ petition should have been dismissed.

6. Accordingly, we set aside the judgment of the Division Bench and remand the writ appeal to the High Court for fresh disposal in accordance with law. The parties will bear their respective costs in this appeal.

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