

B. K. Rao and Another

Vs

State of Gujarat and Others

Civil Appeals Nos. 2309-2310 of 1979

(E. S. Venkataramiah, Bahrul Islam JJ)

19.01.1982

ORDER

1. These two appeals by special leave are directed against the order dated April 17, 1979 in Miscellaneous Civil Applications Nos. 95-96 of 1979. The appellants were holding temporarily the posts of Aval Karkuns when they presented the writ petitions in Special Civil Applications Nos. 995 of 1974 and 1628 of 1977 on the file of the High Court of Gujarat, when they were about to be reverted on the ground that they had not passed the revenue qualifying examination. The said writ petitions were dismissed. Thereafter they filed two review petitions : Miscellaneous Civil Applications Nos. 95-96 of 1979 referred to above before the High Court and they too were dismissed.

2. These appeals are filed against the order in the review petitions. The question for consideration in these cases is whether the appellants can continue to hold the posts of Aval Karkuns even though they have not passed the revenue qualifying examination prescribed by the State Government. The contention of the appellants before the High Court was that since they were allottees under the States Reorganisation Act, 1956 from the former State of Saurashtra, where there was no requirement of the passing of the revenue qualifying examination for promotion to the post of Aval Karkuns, they could not be called upon by the State of Gujarat to pass any examination in order to secure promotion to the cadre of Aval Karkuns, in view of the provision in the States Reorganisation Act protecting their conditions of service which were prevailing before the States Reorganisation Act came into force. At the hearing of these appeals Shri J.L. Nain, learned counsel for the State of Gujarat, submitted that the State Government is willing to settle the dispute in accordance with the following terms :

(1) The State Government will hold two revenue qualifying examinations within a period of six months and the results of the second examination will be announced on a date not later than September 30, 1982.

(2) Those of the appellants who pass at either of the two examinations would be continued as Aval Karkuns subject to any other rule but will be placed below all others who have already passed the revenue qualifying examination in the seniority list of Aval Karkuns.

(3) The Government will be at liberty to revert on or after October 1, 1982 all those who do not pass in either of the two examinations.

3. Shri M.R. Barot, learned counsel for respondents 3 to 10 has no objection to the above formula

indicated by Shri J.L. Nain.

4. In view of the above submission Shri T.U. Mehta, learned counsel for the appellants does not press the appeals. The appeals are dismissed accordingly without any order as to costs.

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