

P. K. Chinnasamy

Vs

Government of Tamil Nadu and Others

Civil Appeal Nos. 2727-29 of 1987

(Ranganath Misra, K. N. Singh JJ)

14.10.1987

ORDER

1. Special leave granted.

2. The appellant was appointed as Assistant Engineer (Motor Vehicles) in 1970 and was confirmed in that post in July, 1974. In September, 1974, the appellant's post was redesignated as Regional Transport Officer. In 1979, the appellant had to move the High Court for recognition of his seniority and grant of consequent service benefits including promotion and in April, 1983, the High Court directed his seniority to count from July 1970, and for considering his claim for promotion as Deputy Transport Commissioner on the basis of his seniority. The State Government took quite some time to promote the appellant. A little later, for unknown reasons, the State Government allowed the officers junior to the appellant to officiate as Joint Transport Commissioners and the appellant found that he had been consistently overlooked and officers junior to him were getting appointed as Joint Transport Commissioners. The appellant again approached the High Court. During the pendency of the later petition before the High Court, the appellant who was then Deputy Transport Commissioner at Coimbatore and had proceeded on casual leave for four days found himself replaced and transferred to Madras. At Madras, the appellant was not given posting and work commensurate to his status. On this occasion when he moved the High Court alleging mala fides and improper treatment to him as a public officer, the High Court refused to interfere.

3. We have perused the civil appeal, the further affidavits on behalf of the appellant and the counter-affidavits filed on behalf of the respondents and we have also heard learned counsel at length. After the matter was heard, we came to the conclusion that the appellant was not being properly treated as a public officer and adjourned the matter to give an opportunity to the respondent-government to give the appellant an appropriate posting and allot proper work to him. The matter had to be adjourned on three occasions on representation of counsel for the State that orders were going to be made, yet nothing happened and a stage was reached when even counsel found it embarrassing to ask for further adjournment.

4. In a democratic polity as ours, the bureaucracy works as the pivot for running the administration. So far as the state is concerned, matters of policy and the ultimate responsibility for running the administration is obviously on the apex body - the Council of Ministers and the Executive Head - the Governor. It cannot be lost sight of that every public officer is a trustee and in respect of the office he holds and the salary and other benefits which he draws, he is obliged to render appropriate service to the State. The scheme postulates that every public officer has to be given some posting commensurate to his status and circumstances should be so created that he would be functioning so as to render commensurate service in lieu of the benefits received by him from the State. If an

officer does not behave as required of him under the law he is certainly liable to be punished in accordance with law but it would ordinarily not be appropriate to continue an officer against a post and provide no work to him and yet pay him out of the Consolidated Fund. It is with this view that we had called upon the respondent-government to give the appellant a proper posting and extract work from him. Since the State Government has not done the needful, it has become necessary for the court to interfere. Ordinarily in a case of this type, the court would have no role to play.

5. We direct the respondent-government of Tamil Nadu to give an appropriate posting to the appellant within one month from today and once he is given such posting, he must be assigned normal official work to be discharged by him as contemplated under the rules and procedure in respect of the post the appellant is assigned. We hope and trust that the appellant shall be given a proper assignment commensurate to his position in the service and the State Government in its action would exhibit no bias or mala fides. We make it clear that we have not examined the correctness of such allegations as we are sure, given an opportunity, the State Government would exhibit ideal conduct as an employer and establish by its conduct that the allegations were baseless. We make no order for costs.

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