

SUREME COURT OF INDIA

S.C. Thippeswamy

Vs.

Union of India (Uoi)

(O C Reddy and S Natarajan JJ.)

13.02.1987

ORDER

1. The question before us concerns the respective seniority of the appellant S.C. Thippaswamy and the 3rd respondent S. Shyamsunder. On an earlier occasion the matter had gone up to the Karnataka High Court at the instance of the present 3rd respondent and the following direction was given :

In the result we allow these petitions, quash the rankings assigned to the petitioners, with a direction to respondents 1 and 2 to refix their seniority taking into consideration the date April 5, 1955 for Shyam Sunder and April 10,1953 for Rama Gowda as the date of their commencement of continuous length of service in the equated grade after giving opportunities to the officials who are likely to be affected by such refixation.

2. In that case, while discussing the merits of the claim of the petitioner therein (present 3rd respondent) and one Rama Gowda for reckoning their seniority from dates prior to April 5, 1955 and April 10, 1953 respectively, the High Court expressly observed that before those dates they were not allowed to draw the pay of their posts, that they were allowed to draw the pay in the scale of their posts with effect only from April 5, 1955 and April 10, 1953 and for that reason the dates of commencement of their continuous length of service in the equated grade could only be said to be from April 5, 1955 and April 10, 1953. The present appellant was a party to the proceeding. He did not object either to the principle laid down by the Karnataka High Court or to the dates assigned to respondent No. 3 and Rama Gowda pursuant to the direction of the High Court the Government of Karnataka refix the respective seniority of the present appellant and respondent No. 3. The appellant questioned the reification of seniority on the ground that the date April 2,1954, the date of his initial appointment should be treated as the date of commencement of his continuous service. It is not disputed that he did not draw the pay of the equated post with effect from April 2,1954 and that he started to draw the pay in equated post with effect from November 18, 1955 only. It was on that basis that the High Court had earlier directed that seniority should be reckoned. The previous judgment of the High Court is binding on both (sic) the appellant who was a party to the proceeding and did not choose to prefer an appeal The appeal is, therefore, dismissed, No costs.

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