

K. R. Prasad and Others

Vs

B. Rosaian and Others

Civil Appeal Nos. 2538 and 2539 of 1987

(Ranganath Misra, G.L. Oza JJ)

24.02.1988

JUDGMENT

RANGANATH MISRA, J. -

1. These two appeals are by special leave and are directed against one and the same judgment of the Andhra Pradesh Administrative Tribunal. In the first matter the appellants are a group of promotee Assistant Engineers in the Irrigation Department while in the second the State of Andhra Pradesh is in appeal. The dispute is between direct recruits and promotees to the post of Assistant Engineer in regard to respective seniority and consideration of their claims for further promotion to the post of Executive Engineer.

2. We have today disposed of Writ Petition Nos. 17165-86 of 1985 and 12401 of 1985 (K. Siva Reddy v. State of A.P., 1988 Supp SCC 225), where a similar question relating to Assistant Engineers in the Roads and Buildings Wing was considered. The same principle applies in regard to the service relating to the Irrigation Wing. Rule 2-C(1) of the Special Rules provides that in respect of the substantive vacancies in the category of Deputy Executive Engineers (resignation of Assistant Engineers), 37 1/2 per cent shall be filled by direct recruitment and the remaining 62 1/2 per cent shall be filled by transfer of additional Assistant Engineers and draftsmen of the Andhra Pradesh Engineering subordinate Service and by promotion from among Assistant Executive Engineers. The principle which we have indicated in our judgment in the writ petition is full applicable and that is in accord with the decision of the Tribunal. We think it appropriate in the ends of justice that the direction of the Tribunal should be given effect to in the same way as we have directed in the writ petition. We, therefore, modify the decision of the Tribunal and require the State Government to ascertain the total number of substantive vacancies of Deputy Executive Engineers as on December 31, 1982 and no promotee would be entitled to regularisation as against the vacancies within the limit of 37 1/2 per cent reserved for direct recruits. After December 31, 1982 the seniority list shall be redrawn by adopting the principles in the decision in the said writ petitions. The State of Andhra Pradesh shall also fill up the vacancies meant for direct recruits in the manner indicated therein so that no further dispute regarding the inter se seniority between the two categories would be raised in future based upon the failure of the State Government to make direct recruitment or regularise beyond the limit indicated in the Rules.

3. Both the appeals are disposed of with these directions and without any direction for costs.

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