

G. Suryanarayana and Another

Vs

Superintending Engineer and Others

Civil Appeal No. 176 of 1989

(N. D. Ojha, E. S. Vankataramiah JJ)

16.01.1989

ORDER

1. Special leave granted. The appellants have questioned in these proceedings the order dated October 31, 1987 passed by the Superintending Engineer, Rajahmundry, East Godavary District repatriating appellant 1 - G. Suryanarayana and appellant 2 - K. Venkatacharyalu to the Vizianagaram Division. The first appellant is repatriated as Draughtsman Grade III and appellant 2 is repatriated as Junior Assistant. Appellant 1 has relied upon an order passed on November 21, 1980 by the Superintending Engineer, I & PD, Medium Irrigation Projects Circle, Bobbili stating that his services were regularised in the Cadre of Draughtsman Grade II w.e.f. April 29, 1978 forenoon in the Category IV(b) under Branch (I) of APSS Rules. Appellant 2 has relied upon an order passed on November 22, 1978 by the Superintending Engineer, I and PD, Irrigation Circle, Srikakulam at Bobbili under which his services were regularised w.e.f. April 21, 1978 as a Senior Assistant (Upper Division Clerk). The principal contention urged in this appeal is that the impugned orders of repatriation have the effect of taking away the benefit of the orders or regularisation and promotion granted in favour of each of them and the said orders have been passed without issuing notices to them or asking them to show cause why the said orders should not be passed. We are of the view that the impugned orders could not have been passed against the two appellants in the special circumstances of the case without giving them an opportunity to show cause against the action proposed to be taken since the effect of the orders impugned in this case takes away the benefit of the orders of regularisation and promotion passed under Rule 37(a)(i) of the General Rules of the Andhra Pradesh State and Subordinate Rules after nearly 9 years were over and this adversely affects them. We, therefore, set aside the dated October 31, 1987 without expressing any opinion on the merits of the contentions reserving liberty to the authorities concerned, if they are so advised, to pass appropriate orders after issuing notices to the appellants to show cause against the proposed action and considering their representations. This appeal is, therefore, allowed and the order of the Tribunal is set aside. The appellants shall be taken back to duty immediately at the places at which they were working before the impugned orders were passed and whatever salary is due to each of them shall be paid.

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