

Union of India and Others

Vs

N. S. Sakhawat and Others

Stanlay Constantine

Vs

J. S. Virk and Others

Civil Appeals Nos. 1909-10

(M. M. Dutt, Dr. T. K. Thammen JJ)

14.03.1989

JUDGMENT

DUTT, J. –

1. Special between the direct granted in all these matters. Head learned counsel for the parties.
2. The dispute between the direct recruits and the Emergency Commissioned Officers (ECOs) in the Central Reserve Police Force (CRPF) over the question of seniority has been going on for a long time. The Delhi High Court has ultimately held in the favour of the ECOs and by the impugned judgment, the High Court has directed the implementation of its decision regarding seniority and grant of consequential benefits to the ECOs.
3. As per the judgment of the High Court, the 37 direct recruits, who are now holding the posts of Commandants, that is to say, 22 as Commandants (Selection Grade) and 15 as Commandants (Non-Selection Grade), will have to be reverted. The direct recruits feel aggrieved by the impugned judgment of the High Court and it is contended on their behalf that as they were not parties in the contempt proceedings in which the impugned judgment of the High Court has been passed, it is not binding on them, and that the matter should be remanded to the High Court so as to give them an opportunity of being heard. If these contentions of the direct recruits are accepted there will be further delay.
4. It may be mentioned that this is the second time that the matter has come to this Court. It is the desire of the parties that the dispute should be amicably settled and, pursuant to that desire including the Union of India had, from time to time, given their respective suggestions regarding the terms of settlement. Unfortunately, the suggestions or the proposed terms of settlement were not accepted by one party or the other. The terms that were suggested by the Union of India were not acceptable to the ECOs and those of the ECOs were not acceptable to the direct recruits.
5. It is gratifying to state that at the last heading, both the direct recruits and the ECOs came with an agreed terms of settlement. The hearing was adjourned so as to enable the Union of India to consider the terms of settlement as agreed to by the direct recruits and the ECOs.

6. Mr. Gopal Subramaniam, the learned counsel appearing on behalf of the Union of India, states that although the Union of India is also of the view that the dispute between the parties should be resolved amicably, yet the said agreed terms of settlement were not acceptable to it and it has, in lieu of the same, made two alternative suggestion for settlement. Copies of the alternative suggestions have been produced before us by Mr. Subramaniam. Neither of the alternative suggestions is, however, acceptable to the ECOs.

7. We have considered the respective terms of settlement as put forward by the parties including the said two alternative suggestions. CRPF is a sensitive police force and there should not be any dispute and differences among the members of such force. It is the duty of the Government to maintain peace and harmony in the Force by trying to resolve any dispute among the members of the Force in public interest.

8. After considering the facts and circumstances of the case including the impugned judgment of the High Court and the terms of settlement, as agreed to by the direct recruits and the ECOs and also the alternative suggestions of the Union of India, we are of the view that the terms of settlement, as agreed to by the direct recruits and the ECOs, appear to be fair and reasonable and do not involve any additional financial liability of the Union of India for placing the 35 ECOs in the posts of Commandants (Selection Grade) with effect from the date they were promoted as Commandants (Non-Selection Grade), as provided in the agreed terms of settlement. On an examination of the two alternative suggestion made on behalf of the Union of India, we are of the view that they do not redress the grievances of the ECOs. In our opinion, while it may be desirable that the present position of the direct recruits should be protected, the giving of such protection should not be to the prejudice of the ECOs.

9. In the circumstances, in order to establish peace and amity between the contending parties and for ends of justice, we direct that, in modification of the impugned judgment of the High Court, the appeals be disposed of in accordance with the terms of settlement, as agreed to by the direct recruits and the ECOs, as follows :

(1) The Union of India shall withdraw the order viz. order No. F 2/10/86-Estt (CRPF) PP IV dated June 18, 1986 with immediate effect. The order providing for upgradation of 88 posts of Assistant Commandant (second in command) to the post of Commandants (Non-Selection Grade) shall thus stand rescinded. The DPC of 1986 and all consequential orders regarding promotion against upgraded posts shall also stand revoked.

(2) To protect the 37 direct recruits who were holding posts of Commandants, the Union of India shall create 37 supernumerary posts of Commandants (22 as Commandant Selection Grade and 15 as Commandant Non-Selection Grade), which shall be held by the 37 direct recruits who were holding the said posts on the date of judgment dated September 2, 1985 passed by the High Court of Delhi.

(3) The vacancies of 13 posts occurring in the year 1986 of Commandant (Non-Selection Grade) shall be filled afresh by means of a DPC. The DPC shall make promotions in accordance with rules and shall operate upon the revised seniority list prepared by the department pursuant to the judgment of the High Court dated September 2, 1985 affirmed by this Court on January 21, 1986.

(4) The subsequent vacancies in the year 1987 and 1988 for the posts of Commandants (Non-Selection Grade) shall be filled in accordance with rules and the promotions shall be made through DPC in accordance with law/rules.

(5) The Union of India shall review the DPC of 1985 for the posts of Commandants and such review shall be completed as early as possible.

(6) Further, 35 ECOs who have already been promoted as Commandant (Non-Selection Grade) till today will hold the posts of Commandant (Selection Grade), from the date they were promoted as Commandant (Non-Selection Grade) with the condition that they will not be paid any salary for the post of Commandant (Selection Grade) till their turn comes for promotion to Commandant (Selection Grade) against regular vacancies, as per the seniority list.

10. Each party to bear his/its own costs.

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