

Ratilal B. Soni and Others

Vs

State of Gujarat and Others

Civil Appeal No. 1012 of 1987

(Kuldip Singh, V. Ramaswami-II JJ)

16.02.1990

JUDGMENT

KULDIP SINGH, J. –

1. The appellants are in the cadre of Talatis-cum-Mantries (Patwaries) in the Panchayat Service of the State of Gujarat. In the year 1982/83 they were sent on deputation to the higher cadre of Circle Inspectors in the State Service. The question for consideration is whether in the facts of this case the appellants have a right to be absorbed in the cadre of Circle Inspectors.

2. The appellants were originally appointed as Talatis in the Revenue Department of the State of Gujarat. Under the Gujarat Panchayat Act (hereinafter called 'the Act') which came into force with effect from April 1, 1963, Panchayat Service was constituted and under the Act all the posts of Talatis along with the incumbents stood transferred to the Panchayat Service. On that date there was a cadre of Circle Inspectors in the State Service which was bifurcated and 50% of the posts continued in the State Service and the remaining 50% were transferred to the Panchayat Service. The appellants were sent on deputation as Circle Inspector in the State Cadre. In January 1986 qualified officials became available for promotion to the post of Circle Inspectors in the State Cadre and as such the appellants were reverted to their parent cadre of Talatis in the Panchayat Service. The appellants challenged the reversion by way of writ petition in the Gujarat High Court primarily on the ground that their options for absorption in the State Service were pending with the State Government which the State was bound to decide in their favour. The High Court dismissed the writ petition holding that there was nothing on the record to show that the appellants gave any option to be absorbed in the State cadre. The High Court also found that they, being on deputation, have no legal right to be absorbed in the State Service. This appeal by special leave is against the judgment of the High Court.

3. We have heard learned counsel for the parties. The State by a circular dated February 8, 1965 asked the Talatis among others to give their options as to whether they want to remain in the Panchayat Service or to be re-allocated to the State Service. Section 206A(2) of the Act is an under.

"Any officer or servant who is not reallocated under sub-section (1) and continues in the Panchayat Service immediately before the expiry of the aforesaid period of four years shall, on such expiry, be deemed to be finally allocated to the Panchayat Service."

4. It is clear from the above quoted provision that a Panchayat servant who is not reallocated within a period of four years from April 1, 1963 would be deemed to be finally allocated to the Panchayat

Service. The High Court has been held that the appellants have not been able to show that they made any such options before March 31, 1967. Even if it is assumed that the appellants gave some sort of option the same having not been accepted before March 31, 1967, the appellants stood finally allocated to the Panchayat Service.

5. The appellants being on deputation they could be reverted to their parent cadre at any time and they do not get any right to be absorbed on the deputation-post. We see no infirmity in the judgment of the High Court and as such we dismiss the appeal. There shall be no order as to costs.

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