

Gunaru Karan and Others

Vs

Revenue Divisional Commissioner and Others

Civil Appeal No. of 1991 (Arising out of SLP (C) No. 11774 of 1989)

(P. B. Sawant, K. N. Singh JJ)

08.05.1991

ORDER

1. Leave granted.
2. After hearing learned counsel for the parties, we are of the opinion that this appeal must succeed.
3. There is no dispute that the appellants were selected and their names were included in the list of selected candidates which was published on October 5, 1984 in accordance with the then existing Rules but before the appellants could be appointed Rules were amended and published on March 6, 1986. The respondents did not consider the appellants for appointment on the premise that after the enforcement of the new Rules the appellants were not entitled to appointment, as the select list prepared in accordance with earlier Rules became ineffective. This view is not sustainable in law. Rule 19 of the 1985 Rules repealed the earlier Rules, proviso to Rule 19 is in the nature of saving clause. The proviso lays down that the new rule shall not affect any action taken under the Rules which have been repealed and the action shall be deemed to be under the amended Rules. Thus the proviso to Rule 19 protected the select list published on October 5, 1984, therefore the appellants were entitled to appointment, notwithstanding the enforcement of the 1985 Rules. The Tribunal has committed error in rejecting the appellants' claim.
4. We, accordingly, allow the appeal, set aside the order of the Tribunal and direct the respondents to consider the appellants for appointment.

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