

K. Kuppusamy                      And Another

Vs

State of T. N. and Others

Civil Appeal Nos. ... of 1996

(A. M. Ahmadi, M. K. Kukherjee, K. Venkataswami JJ)

05.02.1996

ORDER

1. Special leave granted.
2. Heard counsel on both sides.
3. The short point on which these appeals must succeed is that the Tribunal fell into an error in taking the view that since the Government had indicated its intention to amend the relevant rules, its action in proceeding on the assumption of such amendment could not be said to be irrational or arbitrary and, therefore, the consequential orders passed have to be upheld. We are afraid this line of approach cannot be countenanced. The relevant rules, it is admitted, were framed under the proviso to Article 309 of the Constitution. They are statutory rules. Statutory rules cannot be overridden by executive orders or executive practice. Merely because the Government had taken a decision to amend the rules does not mean that the rule stood obliterated. Till the rule is amended, the rule applies. Even today the amendment has not been effected. As and when it is effected ordinarily it would be prospective in nature unless expressly or by necessary implication found to be retrospective. The Tribunal was, therefore, wrong in ignoring the rule.
4. For the above reason, we set aside the order of the Tribunal and remit the matter to the Tribunal for disposal in accordance with law and in the light of what we have said above. The appeals will stand allowed accordingly with no order as to costs.