

SUPREME COURT OF INDIA

Satya Narain

Vs.

Satish Kumar

(G Pattanaik and B Agrawal JJ.)

01.05.2001

ORDER

1. The short question that arises for consideration in this appeal is whether the appellants who were initially recruited as clerks under a scheme called DRDA and later on were absorbed as clerks in the Forest Department can claim their seniority by tagging on the period which they served as clerks under the scheme in question. As it appears, the appellant No. 1 was appointed as a clerk in the scheme on 22.8.1979 and appellant No. 2 was appointed as a clerk in the said scheme on 27.9.1981. The private respondents were appointed as clerks in the Forest Department w.e.f. 1.1.1980. On abolition of the scheme, the two appellants came to be absorbed as clerks in the State cadre by an order dated 12.4.1985. Necessarily, therefore, they would be junior to all those who had been pointed out as clerks in the Forest Department including the private respondents, The question of inter se seniority and the date with effect from which they would actually be absorbed was receiving the attention of the State Government. Ultimately by an order of the Commissioner and Secretary to the Government in the Forest Department dated 30th January, 1996, it was decided that the period the appellants served as clerks under the scheme also would be taken into consideration for the purpose of their seniority in the cadre of clerk in the Forest Department. This decision was assailed by the private respondents by filing the writ petition and the High Court by the impugned judgment has held that these two appellants must be held to be junior to all those private respondents, inasmuch as the private respondents were borne in the cadre of clerk in the Forest Department w.e.f. 1.1.1980.

2. The sole contention of the appellants in this appeal is that in view of the Government decision dated 30th January, 1996 unequivocally indicating that the services rendered under the Scheme will be taken into account for the purpose of reckoning the seniority in the cadre of clerk, the High Court committed serious error in interfering with that decision and in deciding the question of inter se seniority. We, however, on examining the facts and circumstances and the relevant provisions of the Rules, do not find any force in the same. The recruitment to the post of clerk is governed by a set of rules called "the *Punjab Forest Sub-ordinate Services (Ministerial Section) Rules, 1943*". The statutory provision being there governing the recruitment to the post of clerks, the appointment of the appellants under the Scheme was de hors the Rules and therefore, by no stretch of imagination, such appointment

made de hors the Rules could be tagged on to the period which they have rendered subsequent to their absorption in the cadre.

3. In the aforesaid premises, in our considered opinion, the High Court was fully justified in interfering with the decision dated 30th January, 1996 and in holding that these appellants must be held to be juniors to the private respondents. We, therefore, do not find any merits in this appeal which accordingly stands dismissed.