

**SUPREME COURT OF INDIA**

Mormugao Port Trust

Vs.

S. Srinivas Rao

C.A.No.6520 of 1997

(S. Rajendra Babu and Doraiswamy Raju JJ.)

06.09.2001

**ORDER**

1. This appeal is directed against the order dated 3-4-1997 made by the Bench at Panaji (Goa) of the High Court of Bombay.

2. A writ petition was preferred by the respondent-S. Srinivas Rao who was an employee on the establishment of the appellant as Head Draughtsman at the relevant time. He claimed promotion under the existing rules to the post of Assistant Engineer. That having not been granted, the respondent approached the High Court. The High Court though noticed that the writ petition lacked necessary details as to when the post of Assistant Engineer fell vacant or when he became eligible to be considered for the post of Assistant Engineer, the writ petition was liable to be dismissed, proceeded to consider the several questions raised in view of the importance of the matter.

3. The High Court examined the various provisions of the Major Port Trust Act and in particular Sections 27 and 28 thereof and the regulations framed thereunder. The High Court is of the view that under Section 27(a) and (b) the power to create different categories of posts is available only to the Board and the scheme under the Act is that the posts have been classified and powers to create topmost posts have been given to the Central Government while power to create other posts is given to the Board and the Chairman; that in the case of post of Assistant Engineer whose maximum salary is Rs. 1,000/- in the scale of Rs. 980-50-1330-EB-1930, the Board alone could create the post. On that basis the High Court held that the Chairman had no power to create the post and set aside the order made by him.

4. It is now brought to our notice by the learned Counsel for the appellant that the post of Assistant Engineer carries salary in the following scale Rs. 900-35-1040-40-1080-EB-40-1400-EB-45-1580 with effect from 1983 when the relevant regulations were amended. It is also made clear that in terms of Section 27(c) the Government of India prescribed that posts in respect of which the Chairman could make appointment up to Rupees One thousand nine hundred (exclusive of allowances). The maximum salary in respect of Assistant Engineer is fixed at Rs. 1580/- and it is only clause (c) of Section 27 of the Act which was attracted. In

that view of the matter, the High Court is plainly wrong in having quashed the order made by the Chairman creating the aforesaid post. Hence, this appeal is allowed setting aside the order made by the High Court. The appeal is allowed accordingly.

Appeal allowed.