

SUPREME COURT OF INDIA

Anil Joshi

Vs.

State of Himachal Pradesh

C.A.Nos.6097-6100 of 2009

(Fakkir Mohamed Ibrahim Kalifulla and Abhay Manohar Sapre JJ.)

09.03.2015

JUDGMENT

ABHAY MANOHAR SAPRE, J.

1. Civil Appeal Nos. 6101, 6102, 6103 and 6104 of 2009 are filed by the State against the common judgment dated 15.06.2007 passed by the High Court of Himachal Pradesh at Shimla in Civil Writ Petition Nos. 586 of 1999, 66, 118 and 170 of 2000 wherein the High Court allowed the writ petitions filed by the State employees working in the Forest Department by setting aside the judgment/order dated 15.12.1999 passed by the Himachal Pradesh Administrative Tribunal, Shimla in O.A. Nos. 35 of 1989, 595, 609 and 620 of 1990.

2. So far as Civil Appeal Nos. 6097-6100 of 2009 are concerned, these appeals are filed by one set of employees after obtaining leave of this Court because they were not parties before the High Court or before the Tribunal. According to them, consequent upon the declaration given by the High Court in favour of the respondents in their absence, they felt aggrieved and hence filed these appeals.

3. In order to appreciate the issue involved in these appeals, which lie in a narrow compass, it is necessary to state the relevant facts infra.

4. The respondents herein are the State employees working in the Forest Department in Himachal Pradesh. They were appointed during 1989-1990 and accordingly posted as "Range Officers" in the Forest Department. Their service conditions are governed by the Recruitment & Promotion Rules for the Himachal Pradesh Forest Service (Class-II) (in short "the Rules").

5. The respondents, however, claimed that they having qualified the State Forest Service Course (Diploma Course) from different colleges were eligible to be posted as ACF (Assistant Conservator of Forest) and accordingly were eligible for being treated as "direct recruits" in the H.P. Forest Services Class II.

6. The respondents claimed the aforementioned reliefs essentially on the basis of one letter dated 28.07.1983 sent by the Director of Forest Education, Forest Research Institute & College to the Secretary, Forest Department, States/U.Ts. According to the respondents, the letter was in the nature of the promise given to them by the State and since the State declined to grant the reliefs, they filed O.As before the H.P. State Administrative Tribunal (for short "the Tribunal") against the State and sought for the following reliefs:

(i) That the respondents may be directed to appoint petitioner Nos. 1 and 2 as HPFS-II from the date they completed the SFS Training Course from SFS College Dehradum, i.e. April 1, 1986, the day following the convocation.

That the respondents may be directed to appoint petitioner No.3 as H.P.F.S.-II from the date of his joining the SFS Training Course at SFS College Burnihat, i.e., 1.11.1986.

That the petitioners may be declared to have been duly selected for SFS Diploma against direct quota under the existing R & P Rules and the respondents may be directed to appoint the petitioners from the due dates as has been done in the cases of their contemporary direct recruits.

That the petitioners may be held entitled to all consequential benefits including fixation of seniority and back wages; and That in the alternative if it is construed that there are some impediments for considering the petitioners for appointments to HPFS-II from due dates, in that event, the respondents may be directed to take necessary steps for doing the needful and if the proposed action/rules create certain difficulties in the cases of petitioners, the same may be deemed to have been relaxed in view of peculiar facts of this case."

7. The State contested the respondents' claim and contended that no promise was ever given to the respondents and nor any promise was discernible from the letter dated 28.07.1983 relied on by the respondents so as to entitle them to claim the aforementioned reliefs. It was also contended that since the Rules do not make any provision on the issue in question and hence it is not possible to consider grant of

such relief to the respondents. Lastly, it was contended that as and when any amendment in the Rules is made, the cases of the respondents and others alike them would be considered on their merits at the appropriate stage.

8. The Tribunal, by judgment/order dated 15.12.1999 dismissed the O.As filed by the respondents. It was held that the letter dated 28.07.1983 does not give any right to the respondents to claim such reliefs. It was also held that no case of promissory estoppel, as was sought to be pressed in service by the respondents, was made out in their favour on the strength of the letter dated 28.07.1983. It was also held that the cases of respondents are governed by the Rules and so long as they do not fulfill the requirements of the Rules, no benefit can be extended to them.

9. Aggrieved by the said judgment/order, the respondents filed writ petitions under Article 227 of the Constitution of India in the High Court. By impugned judgment/order, the Division Bench allowed the respondents' writ petitions and quashed the order of the Tribunal. It was held that a case of promissory estoppel as pleaded by the respondents is made out against the State. It was held that if the State has failed to amend the Rules, no blame can be attributed to the respondents for such lapse on the part of the State and nor can they be deprived of their legitimate rights to claim the reliefs for which they filed O.As before the Tribunal.

10. Accordingly, the High Court gave the following declaration in favour of the respondents:

"We consequently allow the writ petitions, set-aside the orders of the learned Tribunal dated 15th December 1999 and hold that the petitioners are entitled to be inducted in the H.P. State Forest Service-II with effect from the date they successfully completed the State Forest Service Course (Diploma Course) in Forestry with all consequential benefits. No order as to costs."

11. It is against this order, the State filed C.A.Nos. 6101, 6102, 6103 and 6104 of 2009 and the affected State employees, who were not parties before the High Court or the Tribunal filed C.A. Nos. 6097-6100 of 2009.

12. The question which arises for consideration in these appeals is whether the High Court was justified in allowing the writ petitions by granting declaration in favour of the respondent-employees.

13. Learned Counsel for the appellant-State while assailing the legality and correctness of the impugned order made two-fold submissions. In the first place,

learned counsel contended that the High Court erred in holding that a case of promissory estoppel was made out in favour of the respondents. According to him, neither any promise was given by the State and nor it could be spelt out from the contents of the letter dated 28.07.1983. Learned counsel contended that apart from the letter dated 28.07.1983, the respondents did not place reliance on any evidence to support their plea of promissory estoppel. Learned counsel further contended that the plea of promissory estoppel was not applicable to the case in hand for the simple reason that service conditions of the respondents are governed by the Service Rules. In the second place, learned counsel contended that the matter is under consideration for making appropriate amendment in the R & P Rules of HPFS-II and hence so long as appropriate amendment is not made, the respondents are not entitled to claim reliefs.

14. In contra, the respondents supported the impugned order and contended that no case is made out to interfere in the impugned order and hence the appeals are liable to be dismissed.

15. Having heard the learned counsel for the parties and on perusal of the record of the case, we find force in the submission of the learned counsel for the appellant-State.

16. As mentioned above, the High Court allowed the respondents' writ petitions essentially on the ground that a case of promissory estoppel was made out against the State and hence the State is bound by the promise made to the respondents for grant of reliefs in question.

17. We cannot concur with the view taken by the High Court, as in our considered opinion, it is not sustainable both on facts and in law.

18. It is a settled principle of law that the service conditions of a State employee are governed by the Statutory Rules framed by the State from time to time. An employee is, therefore, entitled to enforce his statutory right recognized in the Rules in relation to his service condition if it is breached due to any action on the part of the State. A plea of promissory estoppel can be set up by a person against the State only when he is able to prove with adequate evidence that the State has promised him in writing in express terms to grant specific benefit and acting upon such promise he has altered his position. In such situation, the State cannot be allowed to go back to the promise made to such person and he can enforce the promise made to him.

19. Coming to the facts of the case in hand, we find that firstly the terms and conditions of the service of the respondents are governed by the Recruitment & Promotion Rules known as R & P Rules of HPFS-II. Secondly, Column 7 of the Schedule to the Rules provides for educational and other qualifications required for direct recruits, whereas Column 10 of the Schedule to the Rules provides for method of recruitment whether by direct or by promotion or transfer. Likewise, Column 11 of the Schedule to the Rules provides for the necessary qualification for promotion etc. Thirdly, the respondents were not able to show any Rule, which enabled them to claim a relief of the nature for which the O.As were filed. Fourthly, perusal of the letter dated 28.07.1983 would go to show that it only provided that the Forest Rangers, who passed the Ranger Course with Honours, were considered eligible to secure admission to the 2nd year of the State Forest Services Course (Diploma Course) in Forestry being conducted at the State Forest Service Colleges and such deserving Forest Rangers if found suitable, could be considered for admission in the State Forest Services Course.

20. For ready reference, letter dated 28.07.1983 is reproduced hereinbelow:

"No. 1410/83-DEF/5-2-62(PT.III) GOVERNMENT OF INDIA FOREST RESEARCH INSTITUTE & COLLEGES, P.O. NEW FOREST, DEHRADUN-248 006 DATED THE 28TH JULY, 1983. From The Director of Forest Education Forest Research Institute & College.

To The Secretary, Forest Departments, States/U.Ts.

Sub: Selection for Diploma Course in Forestry at the State Forest Service Colleges located at Burmihat, Coimbatore and Dehradun.

Sir, I have the honour to state that in view of the decision taken by the Council of Forestry Research and Education in one of its meeting held at Delhi on 5.5.1983, the Government of India have been pleased to convey their approval to the fact that those trained Forest Rangers who have/had passed the Rangers Course with honours are eligible for admission to the 2nd year of the State Forest Service Course (Diploma Course) in Forestry being conducted at the State Forest Service Colleges located at Bumihat (Assam-Meghalaya), Coimbatore(Tamil Nadu) and Dehradun. It is requested that the matter may kindly be given wide publicity and the cases of deserving trained Forest Rangers may be considered and recommended accordingly for admission in the State Forest Service Course.

Yours faithfully, Sd/-

(C.S. Kirpekar) Director of Forest Education Forest Research Institute & Colleges.

Copy forwarded to the Chief Conservator of Forests,for favour of information and similar action.

Sd/-

(C.S. Kirpekar) Director of Forest Education Forest Research Institute & Colleges."

The contents of the letter quoted above, in our opinion, could not be construed as being in the nature of promise made by the State to the respondents, so as to enable them to seek its enforcement on the plea of promissory estoppel. The letter, in our view, only prescribed additional qualification enabling the Forest Rangers to seek admission in the State Forest Service Course provided they also fulfill necessary qualifications prescribed in Column 11 of the Schedule to the Rules.

21. In our considered opinion, the High Court, therefore, committed an error in placing reliance on the judgments of this Court rendered in *Collector of Bombay vs. Municipal Corporation of the City of Bombay & Ors.*, AIR 1951 SC 469, *Union of India & Ors. Vs. M/s Anglo Afghan Agencies etc.* AIR 1968 SC 718, *M/s Motilal Padampat Sugar Mills Co. Ltd. Vs. The State of Uttar Pradesh & Ors.* AIR 1979 SC 621, *Surya Narain Yadav & Ors. Vs. Bihar State Electricity Board & Ors.* (1985) 3 SCC 38 and *State of Punjab vs. Nestle India Ltd. & Anr.* (2004) 6 SCC 465, which dealt with the cases of promissory estoppel. The High Court failed to see the distinction between the facts of the case in hand and the facts which were subject matter of the cases relied on. The case in hand being a service matter, the rights of the parties were required to be decided in the light of the statutory service Rules applicable to the parties. So far as the decisions relied on by the High Court were concerned, those were the cases where this Court laid down the law relating to the promissory estoppel operating in general field inter se citizen and the State. None of these decisions dealt with the cases arising out of service law. The principle of promissory estoppel laid down therein, therefore, could not be applied to the case in hand for giving benefit to the respondents.

22. Learned counsel for the respondents referring to certain letters, contended that a case of promissory estoppel was made out against the State entitling the respondents to claim the reliefs. We find no force in this submission.

23. We have perused the contents of the letters referred to in the impugned order and find that firstly, the letters were exchanged between one State Authority to other and not addressed to the respondents and secondly, no enforceable right of the nature in question was created in respondents' favour on the strength of these letters.

24. Learned counsel for the respondents then urged that appellants in Civil Appeal Nos. 6097-6100 of 2009 have no locus to file the appeal as none of their service rights were adversely affected. This submission need not to be gone into on its merits in this appeal in the light of the decision rendered in C.A. Nos. 6101, 6102, 6103 and 6104 of 2009-appeals filed by the State against the impugned judgment/order.

25. Learned counsel for the respondents, lastly, brought to our notice that pending appeals, the respondents were given some benefits independent to the impugned judgment/order. If that be so, then we prefer to express no opinion on any such issue because it was not gone into at any stage of the proceedings. We, however, make it clear that we only examined the issue which was decided by the Tribunal and the High Court, therefore, this order would not come in the way of the parties if, in the meantime, they or anyone received any benefit independent of the controversy involved in this case. Needless to say, so far as this case is concerned, the cases of the respondents can always be considered for their promotion etc. in the light of existing Rules if they fulfill the qualifications laid down or as per any amended Rules, if made.

26. In the light of foregoing discussion, we cannot uphold the judgment/order passed by the High Court which deserves to be set aside.

27. The appeals thus succeed and are hereby allowed. The impugned judgment/order dated 15.06.2007 passed by the High Court in the writ petitions is set aside. The writ petitions filed by the respondents stand dismissed resulting in restoration of the order passed by the Tribunal, which rightly dismissed the O.As filed by the respondents.

28. In the light of the decision in C.A. Nos. 6101, 6102, 6103 and 6104 of 2009, C.A. Nos. 6097-6100 of 2009 are disposed of.