

D. Rajiah Raj & Ors vs Union Of India & Ors on 26 September, 1972

Equivalent citations: AIR 1974 SUPREME COURT 457, 1973 (1) SCC 61, 1973 LAB. I. C. 84, 1972 SERVLR 860

Bench: A.N. Ray, I.D. Dua, D.G. Palekar

CASE NO.:

Appeal (civil) 157 of 1969

PETITIONER:

D. RAJIAH RAJ & ORS.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT: 26/09/1972

BENCH:

S.M. SIKRI CJ & A.N. RAY & I.D. DUA & D.G. PALEKAR & M.H. BAG

JUDGMENT:

JUDGMENT 1974 AIR 457 = 1973 (1) SCC 61 With Civil Appeal Nos. 158 and 343 of 1969 The Judgment was delivered by RAY, J. :

RAY, J. for the This three appeals are by certificate from the common judgment, dated February 23, 1968, of the Andhra Pradesh High Court.

2. Civil Appeal No. 157 of 1969, arises out of writ petition No. 799 of 1967, Civil Appeal No. 158 of 1969, arises out of writ petition. No. 833 of 1967 and Civil Appeal No. 343 of 1969, arises out of writ petition No. 896 of 1967, filed by the Hyderabad officers in the High Court.

3. The Hyderabad officers are those who were in the Telangana area of the former Hyderabad State. On the formation of the State of Andhra Pradesh on November 1, 1956, the Hyderabad officers continued to serve the State of Andhra Pradesh.

4. In Civil Appeal No. 157 of 1969, the Hyderabad officers asked for an order directing the respondent to treat the post of Sub-Engineer of the former State of Hyderabad as equivalent to the post of Assistant Engineer of Andhra and to integrate the services of Sub-Engineers of Telangana region and Assistant Engineers of Andhra region according to the agreed principles at the Chief Secretaries' Conference held in the months of April and May, 1956, prior to the reorganisation of the State. The Hyderabad officers also asked for an order that the action taken by the Government of Andhra Pradesh in regularising with retrospective effect and in relaxation of the normal rules the

temporary appointments made in the former Andhra State to the post of Assistant Engineers and by promotion from the next lower category of officers had the effect of altering the service condition of the Andhra officers to the detriment of the Hyderabad officers. The Hyderabad officers consequently prayed for an order directing the respondent to adhere to the Government of India decisions, dated December 24, 1965, and June 14, 1966, concerning the retrospective regularisation of Andhra officers. The Hyderabad officers also asked for reversal of the Government of India decision, dated December 22 and 24, 1966.

5. In Civil appeal No. 158 of 1969, the Hyderabad officers asked for an order directing the respondent to treat the post of Executive Engineer of the former Hyderabad State as equivalent to the post of Executive Engineer (Special Grade) of Andhra region and to treat the post of Division Engineer as equivalent to the post of Executive Engineer (Ordinary Grade) of Andhra region and integrate the service by adhering to the agreed principles at the Chief Secretaries' Conference. The Hyderabad officers asked for similar orders as in Civil Appeal No. 157 of 1969, with regard to the Government of India orders, dated December 24, 1965, June 14, 1966 and December 22 and 24, 1966.

6. In Civil Appeal No. 343 of 1969, the Hyderabad officers asked for orders directing the respondent to treat the post of Assistant Engineer of Telangana region as a class by itself superior to the post of Andhra Engineers and the post of Sub-Engineers, Sub-Divisional officers of Hyderabad State as equivalent to the post of Assistant Engineers of Andhra and to integrate the service of the personnel by adhering to the agreed principles at the Chief Secretaries' Conference. The Hyderabad officers in this appeal also asked for reliefs similar to the other appeals with regard to the Government of India decisions, dated December 24, 1965, June 14, 1966 and December 22 and 24, 1966.

7. This Court had to deal with Civil Appeals Nos. 2436-2439 of 1969, arising out of the common judgment of the Andhra Pradesh High Court forming subject-matter of these three appeals. The subject-matter of all these three appeals relates to the equation of posts and integration of service of officers of the Public Works Department in the State of Andhra Pradesh consequent upon the reorganisation of the States in the year 1956. This Court on August 23, 1972, decided Civil Appeals Nos. 2436-2439 of 1969 and upheld the order of the High Court quashing the decision of the Central Government, dated December 22 and 24, 1966. This Court in the said judgment said that the Central Government will proceed with the integration of services of Telangana area officers and Andhra State officers and determine the principles governing the equation of posts and prepare gradation lists after giving opportunities to the persons effected to make their representations.

8. It may be stated here that the decision of the Government of India, dated December 22 and 24, 1966, which has been quashed in Civil Appeals Nos. 2436-2439 of 1969, was to the effect that the services of some of the officers in the Andhra State were regularised with retrospective effect. This Court has in the judgment in the Civil Appeals Nos. 2436-2439 of 1969, dated August 23, 1972, said that the Central Government will have to decide whether the regularisation of promotions of Andhra Engineers as well as relaxation of rules and retrospective regularisation is permissible. The Hyderabad officers contended in the High Court that the temporary services of Andhra officers were stop-gap or fortuitous arrangements. The High Court accepted the contention of the Hyderabad

officers. This Court has set aside the observation of the High Court that the temporary services of the Andhra officers were stop-gap or fortuitous arrangement.

9. The Central Government under Section 115 of the States Reorganisation Act is to determine the principles governing equation of posts and prepare common gradation lists by integration of services. The Central Government has to ensure fair and equitable treatment to all persons in the matter of integration of services and preparation of gradation lists. The Central Government is to give opportunities to the parties affected to make their representations.

10. In these appeals counsel on behalf of the Hyderabad officers contended that though this Court quashed the decision of the Government of India, dated December 22 and 24, 1966, the previous decisions of the Government of India, dated December 24, 1965 and June 14, 1966, were left intact. It was said to behalf of the Hyderabad officers that the Government of India under Section 115(5) of the States Reorganisation Act had no power to review its decision. This Court did not accept that contention in Civil Appeals Nos. 2436-2439 of 1969. The Government has power to review its own decision under the Act. The Government will now proceed to cause the integration of services of officers in the Telangana area and officers of the Andhra State in the light of the observations made in the judgment in Civil Appeals Nos. 2436-2439 of 1969. The previous decisions of the Government of India, dated December 24, 1965 and June 14, 1966, do not hold good. The Central Government will proceed afresh in accordance with law in the matter of integration of services, equation of posts and preparation of common gradation lists.

11. The Hyderabad officers contended that equation of posts as determined by the State Government and accepted by the Central Government on December 24, 1965, is legal. The Hyderabad officers contended that the post of Executive Engineer of Hyderabad should have been equated with the post of Executive Engineer (Special Grade) of Andhra State and the post of Divisional Engineer of Hyderabad State should have been equated with the post of Executive Engineer (Ordinary Grade) of Andhra. Again, it was contended that Class I Executive Engineers from Hyderabad should have been placed enbloc above Sub-Engineers, Sub-Divisional Officers of Hyderabad and Assistant Engineers of Andhra by equating the post of Sub-Engineer and Sub-Divisional Officer of Hyderabad to the post of Assistant Engineer of Andhra. This Court cannot go into these questions as the equation of posts is within the province of Central Government under the States Reorganisation Act.

12. The contention of the appellants in these three appeals that the Central Government was not competent to review its earlier decisions, dated December 24, 1965 and June 14, 1966, fails. The other contention of the appeals that it is not open to the Central Government to consider as to whether the services of Andhra officers could be regularised and whether there could be retrospective regularisation also fails. This Court had already pointed out in the judgment in Civil Appeals Nos. 2436-2439 of 1969, dated August 23, 1972, that the Central Government will find out whether the relaxation of rules as well as the retrospective regularisation is permissible and further whether the same constituted any change of conditions of service. The contention of the appellants that the services of Andhra officers were temporary, stop-gap and fortuitous services will have to be determined by the Central Government by hearing both the Andhra officers as well as the Hyderabad officers. The Central Government will have to determine the rival contentions of the

Andhra officers and the Telangana officers and arrive at its decision.¹³ For these reasons, the contentions of the appellants fail. The Central Government will now proceed in these matters in the light of the observations made in this judgment as well as in the earlier judgment, dated August 23, 1972, in Civil Appeals Nos. 2436-2439 of 1969. The appeals are dismissed. Parties will pay and bear their own costs both in the High Court as well as in this Court.