

OMKAR SINHA & ANR.

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V.

SAHADAT KHAN & ORS.

(Civil Appeal No. 3504 of 2022)

APRIL 29, 2022

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[K. M. JOSEPH AND HRISHIKESH ROY, JJ.]

Constitution of India: Art. 166 – Conduct of business of the Government of a State – Circular order dated 17.10.1997 in undivided State of M.P, granted entry in the Ranger's training to the candidates who stood first in the Forest Guard training schools without entrance – Subsequent to enactment of State Reorganisation Act, 2000, State of Chhattisgarh was formed – However, the circular of the undivided State of M.P continued – Appellant No. 1, who was undergoing training as Forest Guard stood first in the training and felt entitled to be selected for training as Forester, on the basis of the order dated 17.10.1977 – Thereafter, writ petition filed seeking direction that the appellant No. 1 be sent for Forester training – Thereafter, decision taken to send the appellant no 1 for Ranger's training – Challenge to, by the respondent no.1 contending that the circular order dated 17.10.1997 stood withdrawn by circular order dated 14.12.2009 issued by Govt. of Chhattisgarh which provides two additional increments to the trainees who stood first in the Forest Guard training instead of the earlier incentive of sending them for training as Ranger/Forester – Dismissed by the High Court – Division Bench set aside the said order on the ground that circular dated 17.10.1997 was withdrawn by order dated 14.05.2009 – In appeal before this Court, case of the appellant that the earlier circular made by Governor is withdrawn only on 11.06.2012 – Held: Judgment of the Division Bench cannot be sustained – Communication dated 14.12.2009 is not an order of the Governor or expressed to be made in his name – This communication does not bear the insignia of a Government Order – Whereas, the communication dated 11.06.2012 recalling the appellant from the Ranger's Training contained two specific signs that it is expressly made in the name of the governor and that it specifically revoked

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- A *the communication dated 17.10.1977 – M.P. Class III (Non-Minstl.) Forest Service Recruitment Rules, 1967 – r. 14(1) & r. 6(4).*

Bachhittar Singh v. State of Punjab and Another AIR 1963 SC 395: [1962] Suppl. SCR 713; K.S.B. Ali v. State of Andhra Pradesh and Others (2018) 11 SCC

- B **277: [2017] 12 SCR 698; Dyna Technologies Pvt. Ltd. v. Crompton Greaves Limited (2019) 20 SCC 1 – referred to.**

Case Law Reference

C	[2017] 12 SCR 698 (2019) 20 SCC 1 [1962] Suppl. SCR 713	referred to referred to referred to	Para 11 Para 11 Para 14
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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3504 of 2022.

- D From the Judgment and Order dated 13.01.2015 of the High Court of Chhattisgarh at Bilaspur in Writ Appeal No.02 of 2015.

With

Civil Appeal No. 3505 of 2022

- E Ravindra Shrivastava, Sr. Adv., Navin Prakash, Ms. Garima Tiwari, Anshuman Shrivastava, Abhijeet Shrivastava, Ms. Harneet Kaur Khanuja, Ms. Sukriti Chauhan, Arpit Jain, Abhishek Sharma, Advs. for the Appellants.

- F Sourav Roy, Dy. AG, Vikrant Singh Bais, Rakesh S., Mahesh Kumar, Kaushal Sharma, Srinivasa Kumar Bogisam, Ms. Devika Kahanna, Ms. V. D. Khanna, M/s VMZ Chamber, Niraj Sharma, Yogesh Tiwari, Sumit K. Sharma, Ms. Mahima Sharma, Ms. Vaishnavi Paliwal, Advs. for the Respondents.

- G The Judgment of the Court was delivered by
K. M. JOSEPH, J.

1. Leave granted.

2. Both the appeals raise common questions. We take civil appeal arising from SLP (C)No. 13668 of 2015 as the leading case.

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3. Respondent No. 1 was appointed as a Forest Guard on 03.05.1980. He completed his training as Forest Guard in the year 1987. Appellant No. 1 came to be appointed as Forest Guard on 15.11.2007. The second appellant was also appointed as Forest Guard on the same day. The appellants were originally part of undivided State of Madhya Pradesh. Upon the enactment of the State Reorganisation Act, 2000, a new State viz., State of Chhattisgarh was born on 01.11.2000. While the State of Madhya Pradesh was undivided, State of Madhya Pradesh, on 17.10.1977 issued the following circular:

“Copy letter No. 13/10474/1977/1/x dated 17.10.77 from the Government of Madhya Pradesh, Department of Forest, Bhopal to the Principal Forest Conservator, Madhya Pradesh, Bhopal.

Sub: - For giving entry in the Ranger’s Training to the candidate who stood first in the Forest Guard Training School without entrance examination as well as for fixation of height of 163 c.m.

Ref: - Your memo/copy/153/5737 dated 18.7.77.

The State Government grants approval for keeping the height of 163 cm (one hundred sixty three c.m.) for the entire forest schools as well as Forest Guard’s training schools and those Forest Guard who passes the examination of the Training schools in first class is granted approval for sending in the Ranger’s Training session without entrance examination.

By the name and order of the Governor of
Madhya Pradesh.

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Sd/-

4. Based on a proposed strike, a letter dated 14.05.2009 was issued by the Secretary to the Principal Chief Conservator of Forests:

CHHATTISGARH ADMINISTRATION

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FOREST DEPARTMENT

MANTRALAYA, DAU KALYAN SINGH BHAWAN,
RAIPUR

no./f 1-18/2007/10-1/Forest Raipur, Dt.14.05.2009

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A To
Principal Chief Forest Conservator,
Chhattisgarh, Raipur.
Sub: - Information regarding indefinite strike w.e.f.18.5.2009
B for 21 point demands by the Chhattisgarh Forest Employees
Sangh, Raipur (the provision of promotion to the candidates
standing first in the training of Ranger and Forest Guard.
(demand No. 13).

C It has been decided by the State Government
that the proposal regarding grant of 02 additional increments
to the candidates who stood first and 01 additional increment
to the candidates who stood second in the training of Forest
Guard/Ranger be approved and the previous practice be
rescinded. In this regard, please submit the necessary
proposal at the earliest.

D Sd/-

(Kaushlendra Singh)
Secretary
E Chhattisgarh Administration, Forest Department

No.F-1-18/2008/10-1 Raipur, Dated 05/2009

F Copy to:
Shri Faiyaj Ahmad Khan, State President,
Chhattisgarh Forest Employees Sangh, Forest Colony
Complex, Raipur-for information.

Sd/-
G Secretary
Chhattisgarh Administration, Forest Department

H 5. Next, we must notice communication dated 14.12.2009. It reads:

OFFICE OF THE PRINCIPAL CHIEF FOREST
CONSERVATOR

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CHHATTISGARH ARANYA BHAWAN, MEDICAL
COLLEGE

ROAD, RAIPUR

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BRANCH- ADMINISTRATION / NON-GAZETTED

No./Admn.Non-Gazetted.1/2009-7579 Raipur,Dt.14/12/2009

To

Chief Forest Conservator

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(Ma. San Vi/Su.Pau.)

Chhattisgarh, Raipur

Sub: -Sending Forest Ranger training to the Forest Guards
stood first in the Forest Guard Training School.

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Ref.: Your letter No./Ma.Sun.Vi./Su./Pau./1133 dated
09.12.2009

By the letter under reference on the captioned subject, Shrilal Netam, Forest Guard has been mentioned for sending in the Forest Ranger Training. It is written in this regard that by considering on the demand No. 13 out of 21 point demands of the Chhattisgarh Forest Employees Sangh by the Chhattisgarh Administration, Forest Department, decision has been taken to grant 02 additional increments to the trainees who stood first in the Forest Guard/Ranger training and 01 additional increment to the trainees who stood second in the said training. Therefore, there is no need to send the candidate who stood first in the Forest Guard training for the training of the Rangers. As per direction of the Chhattisgarh Government, Forest Department, the trainees who stood first is entitled for only 02 additional increments. Copy of the letter No.F-1-18/2007/10-1 (part-13) of the Chhattisgarh Administration, Forest Department; Mantralaya Raipur is enclosed.

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A Enclosure: - As aforesaid

sd/- illegible

14.12.09

Chief Forest Conservator (Admn. Non-Gazetted)

B Chhattisgarh (Raipur)"

- C 6. In the meantime, it would appear that appellant No. 1, who was undergoing training as Forest Guard stood first in the training. He felt entitled to be selected for training as Forester, on the basis of the order dated 17.10.1977. A writ petition came to be filed as WP 45/2010 seeking direction that the appellant No. 1 be sent for Forester training. Judgment was rendered on 11.01.2012 noting that there was some proposal to abolish the practice of sending the Forest Guard who stood first; noting that this is a policy matter, a decision was directed to be taken on the said representation.

- D There was correspondence dated 23.04.2012, which reads as follows:

GOVERNMENT OF CHHATTISGARH

FOREST DEPARTMENT

E DAU KALYAN SINGH BHAWAN, MANTRALAYA,
RAIPUR

NO./1266/539/2012/10-1/FOREST RAIPU Dt. 23.4.2012

To

F Principal Chief Forest Conservator,
Chhattisgarh, Raipur

Sub: - WP (C)No. 45/2012 Shri Omkar Sinha, Forest Guard
Vs. State of Chhattisgarh and Ors.

G Ref: - Your letter No. / Admn. Non-gazetted.1/Nyaya./1380
dated 02.03.2012.

H Kindly peruse the captioned letter under reference. In this regard it is relevant to mention that after receipt of the amendment proposal from the General Administration Department in Three Class (non-clerical)

Forest Service Recruitment Rules the same has been sent A
to the Law Department for vetting/modification. Till the
time the new recruitment rule is not framed and enforced,
the action may kindly be taken as per the existing recruitment
rules.

2. It is relevant to mention that in the case of Shri Sinha, the B
Hon'ble High Court vide its order dated 11.01.2012 has
directed to take decision within 04 months, which shall be
expired / lapsed on 11.05.2012.

3. As per direction, in the aforesaid case the action may be C
taken according to the existing recruitment rules.

Sd/-

(M.L. Tamrakar)

Under Secretary

Chhattisgarh Government, Forest Department D
No./ /539/2012/10-1/Forest Raipur, Dt. / / 2012

Copy to:

Shri Omkar Sinha, Forest Guard, Singpur
Enclave Dhamtari, Dhamtari Forest Division, Dhamtari for E
information.

Sd/-

Under Secretary

Chhattisgarh Government, Forest Department F

7. We have referred to correspondence dated 23.04.2012. Then
there is order dated 11.06.2012. It reads:

CHHATTISGARH ADMINISTRATION
FOREST DEPARTMENT G
MANTRALAYA, DAU KALYAN SINGH BHAWAN,
RAIPUR

No./1783/2900/2012/10-1/Forest Raipur, Dt.11/6/2012

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- A To
Principal Chief Forest Conservator,
Chhattisgarh, Raipur.
Sub: - For immediate recalling of Shri Onkar Sinha, Forest
Guard from the Ranger's training.
- B Ref: - Your letter No./Admn./Non-Gazetted/2012/3154,
dated 01.05.2012.
Kindly peruse the captioned letter under
reference.
- C 2. The order No.13/10474/1977/1/X dated 17.10.1977 of
the Government of Madhya Pradesh, Forest Department is
hereby revoked.
- D 3. In respect of recalling Shri Onkar Sinha, Forest Guard
from the training of the Ranger, may kindly take necessary
action as per rule.
- By the name and order of the Governor of Chhattisgarh
- Sd/-
(M.L. Tamrakar)
Under Secretary
- Government of Chhattisgarh, Forest Department
No. 1784/2900/2012/10-1/Forest Raipur, Dated 11.6.2012
- F Copy to:
State president, Chhattisgarh Forest Employees
Sangh, Raipur, Head Office, Forest Colony Complex, Pandri,
Raipur for information in reference to his letter No. 24 dated
02.06.2012.
- G Sd/-
Under Secretary
- Government of Chhattisgarh, Forest Department”
- H 8. Since the second appellant was not sent for training, he filed
WP 4076 of 2012 in which an order similar to the order passed in the

case of the first appellant came to be passed on 03.10.2012. After reconsideration of the entire matter, it is found by order dated 22.1.2013 by Under Secretary that it was decided to send the appellants for training and that there was no contempt involved.

9. The Chief Conservator of Forest sent communication to the Director on 01.12.2013 asking for list of Forest Guards who stood first during that period 14.05.2009 till the date of session.

The first respondent filed WP (S)No. 1100/2013 challenging the orders dated 22.01.2013 and 01.12.2013 on the basis that circular dated 17.10.1977 stood withdrawn by circular dated 14.12.2009 and therefore, no Forest Guard could be sent out of turn for training as Forester after withdrawal of the circular dated 17.10.1977. In the meantime, on 17.02.2014, the appellants completed their training as Forester. The learned Single Judge dismissed the Writ Petition No. 1100 /2013 out of which one appeal arises and also Writ Petition (S) No. 188/2012 which is the subject matter of the other appeal. Writ appeals came to be filed by the aggrieved writ petitioners in both the cases viz., Writ Appeal No. 1/2015 and Writ Appeal No. 2 /2015. By the impugned judgment, the Division Bench set aside the judgment of the learned Single Judge. Findings of the Division Bench to be noted are as follows:

“14. The State Respondent did not act fairly, reasonably and responsibly in the matter. A decision had already been taken at the highest level of the Government on 14.5.2009. It was understood in clear terms by the Principal Chief Conservator of Forest who issued consequential orders on 14.12.2009. The Under Secretary then issued an order at variance. There is no pleading in the counter-affidavit of the State that the Secretary had allowed his own order dated 14.5.2009 to be recalled much less did the order of the Under Secretary make any reference to the order of the Secretary. An advantage was taken of the order of the Court in Writ Petition (S) 45 of 2012 filed by the private Respondent to create an aura of fear that the wrath of the Court would be invited in contempt jurisdiction rather than to have decided the representation in accordance with law. The respondent authorities in the counter affidavit virtually challenge their own order dated 14.5.2009 which is clearly impermissible in the law. The Sub-divisional Forest Officer who has sworn

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- A the counter affidavit virtually challenges the order of the Secretary, Department of Forests of the State government dated 14.5.2009 which is impermissible as held in (1988) 3 SCC 570 (Commr. of Commercial Taxes (Asstt.) v. Dharmendra Trading Co) observing as follows: -
- B “5. We totally fail to see how an Assistant Commissioner or Deputy Commissioner of Sales Tax who are functionaries of a State can say that a concession granted by the State itself was beyond the powers of the State or how the State can say so either.....”
- C 15. The standards by which the Government will act has to be very different from the manner in which a private authority or individual will act. The order dated 14.5.2009 did not emanate in the void. It was the result of a proper thought process in view of certain demands raised by the Forest Workers Union who had threatened to go on strike. We were informed at the bar during hearing by the parties that eventually the strike was called off because of the assurances given by the Government.
- D 16. It is apparent that this decision was taken after consultation with the Union or the Government *suo-moto* took the decision to avoid the possibility of any strike. The counter-affidavit confronts the Court with a conclusion rather than informing that whether any negotiations were held with the Union or not. Under what circumstances the decision dated 14.5.2009 was taken. The question that arises for our consideration is that if the State Government in the Department of Forest at the highest level gave assurance to its employees because of which they called off their strike, was it only a guise by the officials of the State to fraudulently have the strike called off without any intention to implement their decision and assurance given. If that was so, it was a fraud on the Constitution, impermissible under Article 14 of the Constitution. Conversely, if the State took a conscious decision to do away with the circular dated 17.10.1977 in view of the strike call given by the Union and thereby prevented the strike, the State certainly stood to gain an
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advantage and is bound to stick by its promise. The authorities of the State Government cannot vacillate in decision making according to their convenience seeking shoulders of the Court when in fact, the Court never gave them its shoulder. We do not approve of the conduct of the State authorities in reading more into the order in Writ Petition (S)No. 45 of 2012 than it actually contained.

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17. In (2013) 3 SCC 559 (State of Bihar v. Sunny Prakash) the challenge was to the direction of the High Court in a Public Interest Litigation to ensure that the commitment given by the State Government to the Bihar State University and College Employees Federation is honoured and implemented. The strike was called off following an agreement after the State Government issued a letter for implementation of the agreement. Later the State government sought to rescile that it was not a decision taken according to Rules to Executive business. It was held as follows:

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“22. Inasmuch as all the persons who were competent to represent were the parties to the said agreement referred to above and after making such commitment by the State Government, as rightly observed by the High Court, we are also of the view that the same has to be honoured without any exception. By the impugned order, the High Court has not only directed the State Government to implement the commitment given by it having been reduced into writing on 18-7-2007, honoured by the State Government itself in subsequent letters/correspondences but also directed the Federation to call off the strike immediately in the interest of the student community.”

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10. We have heard the learned senior counsel appearing for the appellants as also the learned counsel appearing for the respondents/writ petitioners and the learned counsel for the State.

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11. Learned senior counsel for the appellants would point out that the High Court was wrong in deciding that by communication dated 14.05.2009, the Government circular dated 17.10.1977 was withdrawn.

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A Actually, in law, the earlier circular made by Governor is withdrawn only on 11.06.2012. He would rely on *Bachhittar Singh v. State of Punjab and Another* AIR 1963 SC 395:

“8. What we have now to consider is the effect of the note recorded by the Revenue Minister of PEPSU upon the file.

B We will assume for the purpose of this case that it is an order. Even so, the question is whether it can be regarded as the order of the State Government which alone, as admitted by the appellant, was competent to hear and decide an appeal from the order of the Revenue Secretary. Article 166(1) of the Constitution requires that all executive action of the Government of a State shall be expressed in the name of the Governor. Clause (2) of Article 166 provides for the authentication of orders and other instruments made and executed in the name of the Governor. Clause (3) of that article enables the Governor to make rules for the more convenient transaction of the business of the Government and for the allocation among the Ministers of the said business. What the appellant calls an order of the State Government is admittedly not expressed to be in the name of the Governor. But with that point we shall deal later.

C What we must first ascertain is whether the order of the Revenue Minister is an order of the State Government i.e. of the Governor. In this connection we may refer to Rule 25 of the Rules of Business of the Government of PEPSU which reads thus:

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F “Except as otherwise provided by any other Rule, cases shall ordinarily be disposed of by or under the authority of the Minister in charge who may by means of standing orders give such directions as he thinks fit for the disposal of cases in the Department. Copies of such standing orders shall be sent to the Rajpramukh and the Chief Minister.”

G According to learned counsel for the appellant his appeal pertains to the department which was in charge of the Revenue Minister and, therefore, he could deal with it. His decision and order would, according to him, be the decision

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and order of the State Government. On behalf of the State reliance was, however, placed on Rule 34 which required certain classes of cases to be submitted to the Rajpramukh and the Chief Minister before the issue of orders. But it was conceded during the course of the argument that a case of the kind before us does not fall within that rule. No other provision bearing on the point having been brought to our notice we would, therefore, hold that the Revenue Minister could make an order on behalf of the State Government.

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9. The question, therefore, is whether he did in fact make such an order. Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file. As long as the matter rested with him the Revenue Minister could well score out his remarks or minutes on the file and write fresh ones.

This judgment, he would point out was followed in *K.S.B. Ali v. State of Andhra Pradesh and Others* (2018) 11 SCC 277 and *Dyna Technologies Pvt. Ltd. v. Crompton Greaves Limited* (2019) 20 SCC 1.

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12. Learned counsel for the respondents/writ petitioners in the High Court, however, take us through the order of the Division Bench and support the order. He would submit that statutory rules were in place in the undivided State of Madhya Pradesh. What is more, statutory rules have also been made for newly governed State of Chhattisgarh on 21.06.2012. He would submit that under the M.P. Class III (Non-Minstl.) Forest Service Recruitment Rules, 1967 (hereinafter referred to as ‘Rules’), for promotion for the post of Forester, certain number of years as experience as trained Guard is mandatory. Besides, by supporting the reasoning of the Division Bench, he would also submit that any attempt to draw support from circular 17.10.1977 as followed in the State of

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- A Chhattisgarh would be in the teeth of statutory Rules and hence would be *ultra vires*. At any rate, the Court should not see any merit in the complaint of the appellants, he contends.
13. *Per contra*, Mr. Sourav Roy, learned Deputy Advocate General, would submit that the reasoning of the High Court in the impugned judgment may not be supportable. He would also submit with reference to the stand taken by the State in the counter affidavit that the earlier circular dated 17.10.1977 in the undivided State of Madhya Pradesh continued to hold good and it was revoked finally in the manner contemplated in law only with the issuance of order dated 11.06.2012. In other words, he would, in substance, support the stand of the appellants. He would submit that while it may be true that there was a strike and a decision was taken, it was only in principle, as is quite evident from the communication dated 14.05.2009. It only indicates that proposal was invited. Thereafter, as is true with any Government decision, of the nature involved, it is a time consuming affair. What is relevant is the legality of the matter and therefore, for the validity of the matter if it is a Government order, it has to be an order of the Governor, which he agrees with the learned senior counsel for the appellants, was passed only with the issuance of order dated 11.06.2012. He would further point out that the Court may not overlook the fact that the case of the writ petitioners in the writ petition was not based essentially on the withdrawal of the order dated 17.10.1977 by order dated 14.05.2009. Instead, the case was based on the order dated 17.10.1977 being completely eclipsed and suffering a natural death as a result of the issuance of the communication which is dated 14.12.2009. He would further submit that there is also no merit in the complaint that order dated 17.10.1977 was *ultra vires*. He would point out that actually under the Rules which were extant while there was a certain number of years to roll by as a Forest Guard before a person could be considered for promotion as Forester, in accordance with Rule 6(4) of the erstwhile Rules, however, the Government may prescribe by order, procedure which may be at variance from the existing rules. Therefore, the order dated 17.10.1977 was projected to be one such exercise. What is more, even in the newly enacted Rules for the State of Chhattisgarh, a provision corresponding to Rule 6(4) has been enacted. So, there is no merit in the case of the *ultra vires* also.

14. We think it is unnecessary to again burden the judgment with copious reference to case law as we have already referred to the

paragraphs as contained in the Constitution Bench of this Court in *A Bachhittar Singh* (*supra*).

What is relevant is that under the Rules, Rule 14(1) provided for promotion from the post of Guard to Forester. Under the same, we notice Schedule IV. It is provided that a Forest Guard could be promoted after three years after training from the Forest Guards Training School or after 12 years or more years of service in the case of untrained Forest Guards. However, we must notice Rule 6. Rule 6 of the said Rules provides for method of recruitment.

Rule 6 *inter alia* provides that recruitment to the service after commencement of the Rules which we notice is in the year 1967, can be made *inter alia* by promotion of members of the service mentioned in column 12 of Schedule IV. Thereafter what is relevant is sub Rule (4):

“(4) Notwithstanding anything contained in sub-rule (1), if in the opinion of the Government the exigencies of the service so require, the Government may adopt such methods of recruitment to the service other than those specified in the said sub-rule, as it may, by order issued in this behalf, prescribe.”

Therefore, it would appear to be the case of the State that it is not as if the 1977 order was in any manner contrary to the statutory rules and it was very much premised on the statutory rules.

15. We have already noticed the factual position. The appellants undoubtedly stood first in the training programme during the training as Forest Guards. There was a reorganisation of the State as we have noticed. The Government Order which would appear to be a Government Order in the undivided State of Madhya Pradesh continued in terms of the Reorganisation Act. Such Government Orders of the undivided State of Madhya Pradesh would undoubtedly continue to hold the field till it was revoked in the manner known to law. The Division Bench in the impugned judgment has proceeded on the basis that the Order dated 17.10.1977 was revoked by order dated 14.05.2009. It is, undoubtedly, true that in the said communication, it is addressed by the Secretary to the Principal Chief Forest Conservator. The proposed strike and the decision taken is referred to. At the same time, it all ends by requesting that the necessary proposal be submitted. It is thereafter that communication dated 14.12.2009 came to be made. Communication

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- A dated 14.12.2009 is not an order of the Governor or expressed to be made in his name. It is a communication, no doubt, issued by a Chief Forest Conservator. Therein, no doubt, reference is made to the demands made by the Employees Union and that the decision had been taken to give two additional increments to the trainees who stood first in the Forest Guard training in replacement of the earlier incentive of sending them for training as Forester. It is also stated that there is no need to send the candidates who stood first in the Forest Guard training for training as Forester. It is reiterated that as per the directions of the Chhattisgarh Government, the trainees who stood first are entitled for only 02 additional increments. We must notice that this communication
- B does not bear the insignia of a Government Order, which alone would suffice to show that order dated 17.10.1977 stood withdrawn. Whereas we would find that the communication dated 11.06.2012 contains two specific signs. Firstly, it is expressly made in the name of the Governor. Secondly, it specifically revokes the communication dated 17.10.1977.
- C The Division Bench has proceeded to consider the case based on the communication dated 14.05.2009 which we must note is a case which even the writ petitioners did not have. A perusal of the pleadings of the writ petition would show that the case of the writ petitioners was premised on the order dated 14.12.2009 bringing about the revocation of the order dated 17.10.77. Even the petitioners did not, in other words, set up a
- E case that 14.05.2009 is an order revoking 14.05.2009. In matters of this nature, the role of proper pleadings must be emphasised for the parties join issue on the basis of the case which has been built up before the Court.

We are of the view, therefore, that the reasoning which has been employed by the Division Bench cannot be sustained. The appeals are allowed and the impugned judgments will stand set aside. There will be no orders as to costs.