

H.S. Vankani & Ors vs State Of Gujarat & Ors on 16 March, 2010

Equivalent citations: AIR 2010 SUPREME COURT 1714, 2010 (4) SCC 301, 2010 AIR SCW 2116, 2010 LAB. I. C. 2185, (2010) 126 FACLR 558, (2010) 2 SCT 473, (2010) 2 SERVLJ 205, (2010) 4 CAL HN 39, (2010) 2 GUJ LR 1624, (2010) 2 LAB LN 623, (2010) 2 ESC 269, 2010 (3) SCALE 136, (2010) 7 SERVLR 28, (2010) 3 SCALE 136

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Bench: K.S. Radhakrishnan, Dalveer Bhandari

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Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2439 OF 2010

(Arising out of SLP(C)No.17251 of 2006)

H.S. Vankani and Ors.

.....Appellant(s)

Versus

State of Gujarat and Ors.

.....Respondent(s)

JUDGMENT

K.S. RADHAKRISHNAN, J.

Leave granted.

2. The controversy in this case is with regard to the inter-se seniority between two batches of direct recruits Range Forest Officers viz., 1979-81 batch (non-graduates) and 1980-81 batch (graduates) of the Subordinate Forest Services of the State of Gujarat and their further promotion to the post of Assistant Conservator of Forests.

3. The recruitment to the posts of Rangers in the Subordinate Forest Services is governed by the Rangers (Subordinate Forest Service) Recruitment Rules, 1969 (in short `1969 Rules') which was

framed by the Government of Gujarat in exercise of its powers conferred under the proviso to Article 309 of the Constitution of India. Appointment to the post of Rangers is made either by way of promotion from the post of Forester or by direct selection. Rule 3 of the 1969 Rules stipulated that a candidate to be eligible for appointment by direct selection should possess a minimum educational qualification of intermediate examination of any recognized university or its equivalent examination comprising of subjects specified therein. Rule 7 lays down that the candidates have to undergo a selection process consisting of a written test and interview. Rule 10 states that the finally selected candidates have to undergo the Rangers course which reads as follows:-

"The candidate finally selected will be required to undergo training for the Rangers Course at the Northern Forest Rangers College, Dehradun or Southern Forest Rangers College, Coimbatore for a period of two years.

4. Rule 11 says that the State Government would bear the costs for the training and that during the period of training the candidate shall receive stipend, emoluments and other allowances if any, as fixed by the Government from time to time. Rule 13 deals with appointment, which reads as follows:-

"On successful completion of the Training Course from the Ranger's College, the candidate shall be appointed as a Ranger if he passes with higher standard certificate and as a Forester if he passes with lower standard certificate."

5. Rule 14 deals with seniority which states that the seniority of Rangers shall be governed by the respective ranks in the final examination, irrespective of the date of joining the service.

6. The Government of Gujarat, in exercise of its powers conferred under the proviso to Article 309 of the Constitution of India framed the Ranger (Subordinate Forest Service Recruitment Examination) Rules 1974 (in short `1974 Rules). Rule 7 deals with the eligibility of the candidate for appointment to the post of Rangers. Rule 8 stipulated that a candidate should possess the minimum educational qualification of intermediate examination from a recognised university in any of the subjects mentioned therein for admission to the competition examination for recruitment to the post of Rangers. The examination conducted by the Gujarat Public Service Commission (`GPSC' in short) followed by a viva-voce and personality test. GPSC has to publish in the Gujarat Govt. Gazette the names of the candidates who qualify for the posts in the serial orders based on the total marks obtained by the candidates and they are required to undergo practical training in the forest for a period of eight weeks. Rule 18 required the candidates to undergo training for the Rangers Course at the Northern Forest Range College, Dehradun, or Southern Forest College, Coimbatore for a period of two years and that the Government would bear the cost Rule 18 reads as follows:-

Rule-18:- The candidate shall during the period of practical training, receive stipend and traveling allowances as the Government may fix from time to time. They shall also be required to undergo training for the Rangers Course at the Northern Forest College, Dehradun or southern Forest College, Coimbatore for a period of two years."

7. Rule 21 states that on successful completion of the training course from the Rangers College, the candidate shall be appointed as a Ranger if he passes with higher standard certificate and as a Forester, if he passes with lower standard certificate. Rule 22 deals with seniority of Rangers which says that the seniority of the Rangers shall be governed by their respective ranks in the final examination at the Rangers College irrespective of the date of joining the service.

8. 1974 Rules were later amended by the Government of Gujarat invoking the powers conferred under which the proviso to Article 309 of the Constitution vide Rangers (Subordinate Forest Service Recruitment Examination (Amendment Rules) 1979, (in short `1979 Rules). Clause 1 of Rule 8 was substituted by stating that a candidate must possess a bachelor's degree in Science or Agriculture of any university recognized by the Government of Gujarat instead of the passing the intermediate examination so as to be eligible for writing the competitive examination conducted by the GPSC for recruitment to the post of Rangers. Rule 18 of the 1974 Rules was also later amended by the Rangers (Subordinate Forest Service) examination Rules, 1983 (in short `1983 Rules) on 25th November, 1983, substituting the period of two years as one year training.

9. The Government of India had vide its letter No.3-42/77-FRY-1 dated 29th May, 1979 announced the duration of the courses at various central Rangers Colleges and State Forest Rangers Colleges. Northern Forest Rangers College, Dehradun, U.P., Central Forest Rangers College, Chandrapur, Maharashtra and Southern Forest Rangers College, Coimbatore etc. had since then, discontinued its two years course to one year integrated course, while Forest Rangers College, Balaghat, Madhya Pradesh and Eastern Forest Rangers College Furseong, West Bengal Rangers College, Rajpipla, SFS. College Burnihat, Meghalaya, etc. continued with course of two years duration. Above facts would indicate that different colleges followed their own course structures, curriculum and time schedule for successful completion of training imparted in their respective colleges.

10. Appellants herein (non-graduates) were selected to the post of Ranger Forest Officer by the GPSC in accordance with the 1969 and 1974 Rules and were deputed for training at the Rangers College Rajpipla, where the training course was of two years duration and other candidates of the same batch were sent for training to some other college where also the training course was of two years duration. In short all the non-graduates of 1979-81 batch were deputed for training to the colleges conducting courses of two years duration since the colleges mentioned in the rules had done away with the courses of two years duration to one year integrated course. Appellants completed the training course, the duration of which was two years in the month of March, 1981 and were appointed as Rangers in the Subordinate Service in the month of April, 1981.

11. The Respondents herein (graduates) selected by the GPSC in the year 1979 were sent for training at CFRC, Chandrapur, where the course duration was of one year. After successfully completing the course in February, 1981 they were appointed to the post of Forest Rangers in the month of March, 1981. Non graduates though selected earlier had to undergo two years training and hence could join service only after the graduates joined service, since they had undergone the integrated course of the duration of which was one year.

12. The controversy in this case as we have indicated is with regard to the inter-se seniority between the graduates of (1980-81 batch) who had successfully completed the training course earlier, and the non- graduates of (1979-81 batch) who had also successfully completed the course later for the post of Forest Rangers and also their further promotion to the post of Assistant Conservator of Forests. Rule 13 of 1969 Rules stipulates that on successful completion of the training course from the Rangers College, a candidate shall be appointed as Ranger if he passes the higher standard certificate. Rule 14 of 1969 Rules and Rule 22 of 1974 Rules state that the seniority of Rangers shall be governed by their respective ranks in the final examination irrespective of the dates of joining the service. Both the non-graduates of 1979-81 batch as well as the graduates of 1980-81 batch are governed by the above mentioned Rules with regard to their inter-se seniority.

13. The non-graduates (1979-80 batch) who had to undergo training for two years at Gujarat Forest Rangers' College, Rajpipla, submitted representation in February 1981 to the Chief Conservator of Forest, Vadodara claiming seniority over (1980-81 batch) contending that they could join service late not due to their fault, but due to the fact that they had to undergo two years training course while the candidates of 1980- 81 batch were permitted to take an integrated Training course the duration of which was one year, with the result that they could join Service earlier than the (1979-81 batch) which, according to them, was illegal and discriminatory and had adversely affected their seniority in service . Representations received from the non-graduates were forwarded by the Chief Conservator of forest, with his proposal for favourable consideration but was however turned down by the Government (Agriculture and Forest) Department, vide its communication to the Principal Chief Conservator of Forest dated 12.10.1982, which reads as follows:-

"With reference to your letter No.EST-3A-7409- A-2075 dated 03.08.82 of above cited subject, it is to inform you that those who have given two years of training, their minimum educational qualification is intermediate, while the minimum educational qualification for those who have given one year training is degree of B.Sc, accordingly there is basic difference between both trainees. It is obvious that those who have less qualification required through training. Therefore it is not proper to change seniority because of late appointment due to long training, so kindly note that your proposal is not acceptable."

14. The office of the Chief Conservator of Forest later published a gradation list of Range Forest Officers, as it stood on 1st January, 1983 in which the respondents were shown as seniors to the appellants. After two years, the first appellant herein submitted yet another representation on 22.10.1985 to the Deputy Conservator of Forest claiming seniority over the 1980-81 batch. But a fresh gradation list of Range Forest Officers as it stood on 1st January, 1986 was published by the Department wherein also the respondents (1980-81 batch) were shown as seniors to the appellants.

15. The Chief Conservator of Forests again rejected the first appellant's representation vide his communication dated 05.03.1987 referring to the earlier communication of the Government dated 12th January, 1982 stating that undergraduates have to undergo a more intensive training compared to graduates. The operative portion of the order reads as follows:-

"....With regard to the above it is stated that by the State Government, Agriculture Department, Gandhinagar, letter No:Kra/FST/1071/81475/VA, dated 12.10.1982 it has been decided that the minimum educational qualification of those who were given two years trainee is Intermediates whereas those who are given one year's training their minimum educational qualification is B.Sc degree. Thus there is basic difference between both the trainees. Thus more intensive training is required to be given to those whose educational qualification is less. Therefore, for longer training the appointment was made late. Therefore, it has not been found proper to make any change in the seniority. This means that the Ranger Forest Officers of 1980-81 Rangers Course were given appointment first (in point of time) on completion of training on 28th February, 1981, whereas the training of Range Forest Officers of 1979-81 Rangers Course was completed on 31st March, 1981 and therefore, they were given appointments as Ranger Forest Officers subsequently, and therefore, they will not be getting seniority over the Range Forest Officers of the year 1980-81, as decided by the Government. Therefore, the seniority of Shri Vankani in gradation list of 1983 is at proper place in view of the said decision."

16. Later, a provisional gradation list of Range Forest Officers as it stood on 01.01.1989 was published by the Department wherein also the respondents were shown as seniors to the appellants. Above mentioned gradation lists and the various orders issued by the Government/ Department were never challenged by the appellants before any forum. The first appellant, and others however, submitted yet another representation on 17.05.1992 to the Secretary Forest and Environment department and an Under Secretary in the Forest and Environment Department had sent a note No.VNM/4992/A-225/61 dated 29.09.1993 to the Principal Chief Conservator of Forest stating that the following decision has been taken in consultation with the General Administrative Department which reads as follows:-

"....Selection of Range Forest Officer of 1979-81 batch is as per the provision of Recruitment Rules of 1969. While selection of candidates or thereafter, is as per amended Recruitment Rules thereafter. Therefore, selection of candidates of 1979-81 batch is earlier as per Recruitment Rules of 1969. Generally, candidates selected directly by the Gujarat Public Service Commission are arranged serially from the beginning as recommended by the Commission. But as per provision 14 of the Rangers Recruitment Rules 1969 for seniority of Range Forest Officer are not arranged from the date of joining, but arranged as per Rank of Final Examination of Rangers. The provision 14 of Rangers Recruitment Rules 1969 is to decide internal seniority of the concerned batch only, according to that Range Forest Officer candidates of 1979-81 batch should be placed above candidates of 1980-81 batch in the seniority list."

17. Noticing that the above mentioned order would unsettle the settled seniority the respondents preferred a representation dated 19.10.1993 before the Chief Conservator of Forest reminding that similar representations were earlier rejected and there was no justification in submitting such a note and that too without giving them an opportunity of being heard.

18. The respondents aggrieved by the above mentioned note preferred a Writ Petition SCA 449 of 1994 before the Gujarat High Court and the writ petition was heard along with three other writ petitions and a common judgment was delivered by the learned single judge of that Court on 27.10.1989. The learned single judge however dismissed the writ petition holding that though the persons selected in the 1980-81 batch were given training for a shorter period, on account of their higher qualification, that would not give the officers in the subsequent and previous batches any ground for claiming higher seniority. The respondents herein aggrieved by the above judgment had preferred an LPA No.1634 of 1999 which was allowed by the Division Bench of the Gujarat High Court holding that the respondents herein are entitled to seniority from the date of their appointment after completing the Rangers Course with higher standard certificate and that their inter-se seniority would be governed by Rule 22 of the 1974 Rules. Further, it was also held that the contesting respondents (appellants herein) would take their seniority from the date of their appointment as Rangers after completing the Rangers Course with higher standard certificate and that their inter-se seniority would also be governed by Rule 22 of the 1974 Rules. The impugned order dated 29th September, 1993 issued by the Government was also quashed. Aggrieved by the above judgment the appellants have come up with this appeal, with leave to appeal.

19. We find while the SLP was pending, the Government passed a resolution on 19.07.2007 treating the training period also for the purpose of seniority, increment and pension which according to the respondents was to get over, the judgment of the Division Bench. A Special Civil Application No.5297 of 2009 was preferred by one Assistant Conservator of Forest before the Gujarat High Court for implementing the Government Resolution dated 19.07.2007 so as to get further promotion as Deputy Conservator of Forest and a Writ Petition SCA No.7488 of 2009 was preferred by an Assistant Conservator of Forest for a writ of certiorari to quash the above mentioned resolution. Both the SCAs were heard by the learned single judge of the Gujarat High Court and a common judgment was delivered on 08.09.2009. Learned single judge noticed that the Government Resolution dated 19.07.2007 was directly in conflict with 1974 Rules as amended in the year 1979. Learned Single judge, therefore, dismissed the SCA No.5297 of 2009 and allowed the SCA No.7488 of 2009 by quashing the Government Resolution dated 19.07.2007. State Government it seen has accepted the above mentioned judgment and passed a Resolution on 19th January, 2010 which reads as follows :-

"Above matter was under consideration of the Government and after careful consideration, the Government resolves that in the Resolution of even no. dated 19.07.2007 that the duration from the training period up to the result of the exam, which was to be considered as continuous for the purpose of seniority who have cleared the post -training examination within the prescribed trial are hereby, revoked. Along with this the provisions of resolution dated 19.07.2009 contained in paragraph no.2 are also revoked. The provisions of considering the service as continuous for the purpose of increment and pension, shall retain as they are.

The issue with the concurrence of general administration department vide its notes dated 07.01.2010 on this Department, file of even number.

By order and in the name of the Governor of Gujarat"

20. Shri Dushyant Dave, learned senior counsel appearing for the appellants, referred extensively to the provisions of 1969 Rules, 1974 Rules, and also to the Notification dated 15th September, 1979, amending the 1974 Rules and also 1983 Rules, amending Rule 18 substituting one year instead of two years for completing the Rangers course. Learned counsel submitted that the 1969 Rules, has stipulated two years' training under Rule 10 which still stands un-amended. Learned counsel submitted without while amending the 1969 Rules, the State Government was not justified in reducing the period of training to one year instead of two years for graduates. Learned counsel submitted that the Government has committed a grave error in revoking the Resolution dated 19th January, 2007 by not reckoning the training period for the purpose of seniority. Learned counsel further submitted that when the appellants and the respondents were selected in the year 1979 and 1980 the rule stipulated two years training and hence there was no justification in reducing the training period to one year, so far as the respondents are concerned. Learned counsel submitted that the training period ought to have been reckoned for the purpose of seniority, increment, pay and pension and the Government was not justified in revoking the Resolution dated 19.7.2007, by another Notification dated 15th January, 2010 while the matter was pending before this Court.

21. Learned senior counsel also submitted that the Government was justified in issuing the Note dated 29.9.1993 holding that the candidates of 1979-81 batch should be placed above the candidates of 1980-81 batch in the seniority list and that the continuous officiation should reckon from the date of commencement of the training and not from the date of appointment. In support of his contention, learned counsel referred to the judgment of this Court in G.P. Doval vs. Chief Secretary Government of U.P. (1984) 4 SCC, 329. Reference was also made the judgment of this Court in Prabhakar and Others Vs. State of Maharashtra And Others, (1976) 2 SCC 890, and G. Deendayalan vs. Union of India & Ors (1997) 2 SCC 638. Learned counsel also referred to the judgment of this Court in R.S. Ajara vs. State of Gujarat, (1997) 3 SCC 641 and the rules should not be interpreted to prohibit counting the period of training for the purpose of seniority.

22. Mr. Huzefa Ahmadi, learned counsel appearing for the respondents, submitted there is no illegality in the impugned judgment warranting interference by this Court under Article 136 of the Constitution of India. Learned counsel submitted that the Government has committed a grave error in unsettling the seniority in the year 1993 which was settled in the year 1982. The Government had clearly indicated that two years' training was given to those persons who were non-graduates and one year training was given to the persons who were graduates and there was a basic difference between both the batches of trainees in respect of their educational qualifications. Learned counsel submitted that Government had rightly held that extensive training was required in the case of those who had lesser qualification and hence there was no illegality in the fixation of seniority in the various gradation lists published. Learned counsel submitted that it was due to the pressure exerted by the appellants, a note was put up by the Under Secretary, Forest and Environment Department to the Chief Conservator of Forest for unsettling the seniority which was settled years back. Learned counsel submitted that though the Government had tried to overcome the judgment of the Division Bench by issuing a Resolution on 19.7.2007, it was subsequently revoked vide order dated 15.01.2010, following the judgment of the Gujarat High Court in SCA No.7488 of 2009. Referring to

1969- Rules, 1974 Rules etc. learned counsel submitted that inter se seniority between both the batches has to be reckoned from the date of appointment and not from the date of selection or from the date of commencement of the training. Learned counsel referred the Judgment of the Apex Court in Prafulla Kumar Swain vs. Prakash Chandra Misra, 1993 (suppl) 3 SCC 181; Pramod K. Pankaj vs. State of Bihar, (2004) 3 SCC 723; Bhey Ram Sharma vs. Haryana S.E.B., 1994 (supp) 1 SCC 276. Reference was also made on the decision of Apex Court in K.R. Mudgal vs. R.P. Singh (1986) 4 SCC 531. Ms. Hemantika Wahi, learned counsel for the respondents also endorsed the view of the respondents and also referred to the counter affidavit filed by the State Government in support of their stand.

23. We are of the view that the Government has committed a grave error in unsettling the inter se seniority of the graduates and non- graduates which was settled as early as in the year 1982. The State Government in its letter dated 12.10.1982 had taken the view that two years' training was imparted to non-graduates of 1979-81 batch and one year training was imparted only to graduates of 1980-81 batch since candidates with lesser qualification required through training compared to the candidates with higher qualification. Due to this basic difference in the educational qualification between the 1979-81 and 1980-81 batches, the Government took a conscious decision that it was not proper to unsettle the settled seniority even if there was delay in the appointment of non-graduates. Subsequent to that decision, three gradation lists were published, recognizing the seniority of the respondents over the appellants. Neither the Government order dated 12.10.1982 nor the Gradation lists were challenged before any forum which in our view had attained finality. After a period of two years yet another representation was submitted which was rejected by the Conservator of Forests vide his communication dated 5.3.1987 referring to the earlier Government order dated 12.01.1982. Fresh gradation list was published on 1.1.1989 where also respondent's seniority was recognized. Representations dated 23.05.1989 and 03.05.1990 preferred by the appellants were also not favourably considered by the Government or the Chief Conservator of Forests. The Under Secretary of the Forest and Environment-Department had however put up a note on 29.09.1993 evidently under pressure from the candidates of the 1979-81 batch misinterpreting rule 14 of the 1969 Rules, stating the candidates of 1979-81 batch should be placed above the candidates of 1980-81 batch. Rule 14 of the Rules determines the inter se seniority of the candidates of a particular batch and does not determine the inter-se seniority between two batches, whose educational qualification, years of training and the date of joining, etc. differ. Rule 14 of 1969 Rules and Rule 22 of 1974 Rules also further re- emphasis that fact. The note put up by the Under Secretary on 29.09.1993 is, therefore, contrary to Rule 14 of 1969 Rules and Rule 22 of the 1974 Rules.

24. 1969, 1974, and 1979 Rules clearly stipulate how the seniority has to be reckoned. Rule 14 of 1969 Rules and 22 of 1974 Rules are in pari materia which states that seniority of the Rangers shall be governed by their respective ranks in the final examination at the Rangers College irrespective of their joining the service and on successful completion of the training course the candidates shall be appointed as Rangers if they pass with higher standard certificate. Both the groups are governed by these rules in the matter of their intra seniority and the government had rightly settled the seniority vide orders dated 12.10.1982 and 05.03.1987 and the gradation lists were also rightly published. The Government in our view have committed a grave error in unsettling the settled seniority vide its proceedings dated 29.9.1993.

25. Seniority is a civil right which has an important and vital role to play in one's service career. Future promotion of a Government servant depends either on strict seniority or on the basis of seniority-cum-merit or merit-cum-seniority etc. Seniority once settled is decisive in the upward march in one's chosen work or calling and gives certainty and assurance and boosts the morale to do quality work. It instills confidence, spreads harmony and commands respect among colleagues which is a paramount factor for good and sound administration. If the settled seniority at the instance of one's junior in service is unsettled, it may generate bitterness, resentment, hostility among the Government servants and the enthusiasm to do quality work might be lost. Such a situation may drive the parties to approach the administration for resolution of that acrimonious and poignant situation, which may consume lot of time and energy. The decision either way may drive the parties to litigative wilderness to the advantage of legal professionals both private and Government, driving the parties to acute penury. It is well known that salary they earn, may not match the litigation expenses and professional fees and may at times drive the parties to other sources of money making, including corruption. Public money is also being spent by the Government to defend their otherwise untenable stand. Further it also consumes lot of judicial time from the lowest court to the highest resulting in constant bitterness among parties at the cost of sound administration affecting public interest. Courts are repeating the ratio that the seniority once settled, shall not be unsettled but the men in power often violate that ratio for extraneous reasons, which, at times calls for departmental action. Legal principles have been reiterated by this Court in *Union of India and Another v. S.K. Goel and Others* (2007) 14 SCC 641, *T.R. Kapoor v. State of Haryana* (1989) 4 SCC 71, *Bimlesh Tanwar v. State of Haryana*, (2003) 5 SCC 604. In view of the settled law the decisions cited by the appellants in *G.P. Doval's case* (supra), *Prabhakar and Others case*, *G. Deendayalan*, *R.S. Ajara* are not applicable to the facts of the case.

26. We will now examine whatever it is possible to strictly enforce Rule 10 of 1969 Rules and Rule 18 of 1974 Rules. Rule making authority wanted the finally selected candidates to undergo training in the Northern Forest Rangers College, Dehradun, or the Southern Forest Rangers College Coimbatore, for a period of two years. When the rules were framed, perhaps only those Government run colleges alone would have been conducting those courses, the duration of which were two years and the qualification prescribed was pass in intermediate examination. Later those colleges changed their course duration to an integrated one year course. Rule 10 of 1969 Rules, 18 of 1974 Rules were therefore found to be unworkable. In the year 1979, Rule 8 of 1974 Rules was amended and the minimum educational qualification was fixed as graduation. Necessary amendments, however, were not carried out in Rule 10 of 1969 Rules or Rule 18 of 1974 Rules pointing out in which college the candidate with intermediate qualification had to undergo training, though seldom we find the rule making authority specifies the names of the colleges where the candidates have to undergo their training. Rules were therefore, found to be unworkable and Government was in an obscure situation, and therefore Government took a conscious decision that the candidates of 1979-81 batch with intermediate qualification would undergo the training, the duration of which was two years and the candidates of 1980-81 batch with graduation as qualification would undergo the course, the duration of which was one year. Such a decision was taken, evidently due to the reason that Rule 10 of 1969 Rules and Rule 18 of 1974 Rules were found to be unworkable. Even now 1969 Rules, 1974 Rules refer to NFR College, Dehradun and South FRC Coimbatore, though those colleges had done away with two years course years back but necessary amendments are yet to be carried out in those

Rules. Before 1980-81 batch was selected the educational qualification was amended, but in Rule 18, the period of two years was substituted as one year only vide Notification dated 25th November, 1983 and necessary amendments are yet to be carried out in Rule 10 of 1969 Rules.

27. Strict interpretation of Rule 10 of 1969 Rules and Rule 18 of 1974 Rules was unworkable and literal interpretation would have resulted in absurd results. When the educational qualification prescribed was pass in intermediate examination, the legislature wanted the candidates to undergo training for two years. But, when the higher educational qualification of graduation was prescribed the statute was silent as to the period of training the candidates have to undergo. Even the non-graduates were not sent for training in the colleges mentioned in the Rules but were sent to some other colleges where the duration of course was two years and the candidates of 1980-81 batch was sent for training to the colleges which conducted course of one year duration. Such a course was adopted, since the rules were found to be unworkable. It is a well known Rule of construction that the provisions of a statute must be construed so as to give them a sensible meaning. The legislature expects the court to observe the maxim *ut res magis valeat quam pereat* (it is better for a thing to have effect than to be made void). Principle also means that if the obvious intention of the statute gives rise to obstacles in implementation, the court must do its best to find ways of overcoming those obstacles, so as to avoid absurd results. It is a well settled principle of interpretation of statutes that a construction should not be put on a statutory provision which would lead to manifest absurdity, futility, palpable injustice and absurd inconvenience or anomaly.

28. In this connection reference may be made to the judgment in *R. (on the application of Edition First Power Ltd) v. Central Valuation Officer and another* (2003)UKHL 20(2003) 4 ALL ER 209 at (116),(117), wherein Lord Millett said:-

"The court will presume that Parliament did not intend a statute to have consequences which are objectionable or undesirable; or absurd; or unworkable or impracticable; or merely inconvenient; or anomalous or illogical; or futile or pointless. But the strength of these presumptions depends on the degree to which a particular construction produces an unreasonable result. The more unreasonable a result, the less likely it is that Parliament intended it....."

29. Reference may also be made in the Judgment in *Andhra Bank v. B. Satyanarayana* (2004) 2 SCC, 657, wherein this Court has held:-

" A machinery provision, it is trite, must be construed in such a manner so as to make it workable having regard to the doctrine " *ut res magis valeat quam pereat* ".

30. In *Tinsukhia Electric Supply Co. Ltd. Vs. State of Assam & Ors.*(1989) 3 SCC, 709, this Court held as follows:-

"The courts strongly lean against any construction which tends to reduce a statute to futility. The provision of a statute must be so construed as to make it effective and operative, on the principle " *ut res magis valeat quam pereat* ". It is, no doubt, true

that if a statute is absolutely vague and its language wholly intractable and absolutely meaningless, the statute could be declared void for vagueness. This is not in judicial review by testing the law for arbitrariness or unreasonableness under Article 14; but what a court of construction, dealing with the language of a statute, does in order to ascertain from, and accord to, the statute the meaning and purpose which the legislature intended for it."

31. Reference may also be made to the decision in *Madhav Rao, Jivaji Rao Scindia v. Union of India* (1971) 1 SCC 85, *Union of India v. B.S. Agarwal* (1997) 8 SCC 89, *Paradise Printers v. Union Territory of Chandigarh* (1988) 1 SCC 440.

32. The above legal principles clearly indicate that the courts have to avoid a construction of an enactment that leads to an unworkable, inconsistent or impracticable results, since such a situation is unlikely to have been envisaged by the Rule making authority. Rule making authority also expects rule framed by it to be made workable and never visualises absurd results. The decision taken by the government in deputing the non-graduates (1979-81 batch) to a two year training course and graduates (1980-81 batch) to a one year training is in due compliance with Rule 10 of 1969 Rules and Rule 18 of 1974 Rules and the seniority of the both batches has been rightly settled vide orders dated 12.10.1982 and 5.3.1987 and the government has committed an error in unsettling the seniority under its proceedings dated 29th September, 1993.

33. We, therefore, find no illegality in the judgment of the High court in quashing the order dated 29th September, 1993 and upholding the seniority of the candidates of 1980-81 batch over the candidates of 1979-81 batch.

34. Appeal therefore lacks merits, and the same is accordingly dismissed.

.....J (Dalveer Bhandari)J. (K.S. Radhakrishnan) New Delhi Dated:
16th March, 2010