

Supreme Court of India

G. Ramakrishna Rao And Others vs State Of Andhra Pradesh And Others on 5 December, 1994

Equivalent citations: AIR 1996 SC 401, (1997) 2 SCC 619

Bench: S Mohan, S Majmudar

ORDER

1. Heard learned Counsel for the parties. The facts leading to this writ petition, civil appeals and the special leave petition lie in a narrow compass. By GO Ms. 244 dated March 6, 1963, Andhra Pradesh Panchayat Raj Engineering Subordinate Services Rules came into force. That was given retrospective effect to from November 1, 1960. The petitioners and the appellants who were Overseers were promoted as Supervisors. Some of them prior to 1-11-1960 and after that date but that is not consequential for our purpose. GO Ms. 51 was passed in the year 1972. That prescribed five years qualifying service for promotion from the post of Overseer to the post of Supervisor. Admittedly, the writ petitioners and the appellants did not possess this qualification of five years' service. However, that condition came to be relaxed under GO Ms. 254 dated March 21, 1977. On August 31, 1978 GO Ms. 923 came to be issued making GO Ms. 254 dated March 21, 1977 applicable to (1) promotee supervisors and (2) direct recruit supervisors. This was questioned unsuccessfully before the Central Administrative Tribunal in Representation Petition No. 47 of 1979. It upheld the seniority of the petitioners and the appellants similarly situated. On January 14, 1980, this Court dismissed the special leave petition against the judgment of the Tribunal. After all these proceedings, representation petition No. 1045 of 1978 was filed challenging the seniority accorded to the petitioners and the appellants. By the impugned judgment dated 22-4-1983, the seniority accorded to the petitioners and the appellants was set aside. Thereupon, the Government issued GO Ms. No. 4 on January 10, 1985 restoring the seniority. The short question is, whether the petitioners and the appellants are entitled to the original seniority accorded to them?

2. Mr. A. Subba Rao, learned Counsel appearing for the petitioners/appellants would urge that the Tribunal has completely overlooked the scope of the GO Ms. No. 254 dated 21-3-1977. It was issued for two purposes (1) relaxation of Rule 34 and (2) relaxation of five years' service requirement for promotion to the post of Supervisor from that of Overseer. In the teeth of this Government Order, the Tribunal could not have held adverse to the petitioners/appellants therein on the ground that in the earlier proceedings before the High Court these persons were not regular members (approved probationers) of service as overseers. It was not brought to its notice that Rule 34 stood in the way of the petitioners/ appellants being regarded as approved probationer as overseers. If the said GO is to have its full effect then it follows whatever deficiency there was as far as petitioners/appellants were concerned they stood removed. Therefore, the seniority originally accorded ought to prevail.

3. As against this, the argument on behalf of State of Andhra Pradesh is, GO Ms. 254 came to be passed in view of the judgment of the High Court directing to grant promotion to the petitioners/appellants herein, the State Government thought instead of directing each of the Supervisors belonging to the category to resort to individual writ petition, the proper course would be to issue orders of relaxation. Notwithstanding that, still, if the appellants and the writ petitioners were not approved probationer as overseers then they cannot claim the benefit. From this point of view the impugned judgment of the Tribunal does not call for any interference.

4. The learned Counsel for the respondent (appearing for the direct recruits) would urge that some of the overseers also staked their claims through the Service Commission as direct recruits. They did not succeed. Now, therefore, the petitioners/appellants went the original seniority restoring their ranking as accorded by the Service Commission will be violently disturbed. There is no equity in favour of the petitioners/appellants.

5. We have given our careful consideration to the above arguments. In order to appreciate this controversy, we think it is worthwhile to extract GO Ms 254 dated 21-3-1977. Panchayat Raj (Estt-I) Department. G.O. Ms. No. 254 Dated the 21-3-1977 Read the following:

1. From the Chief Engineer, Panchayat Raj, Hyd. Lr. No. c5/l7164/72-177, dt. 22-3-75.
2. From the Chief Engineer, Panchayat Raj, Hyd. Lr. No. c5/l7164/72-255, dt. 23-3-76.

ORDER Under Rule 47 of the A.P. State and Subordinate Service Rules the Governor of Andhra Pradesh hereby relaxes General Rule 34 of the Andhra Pradesh State and Subordinate Services and Note 2 under Rule of the Special Rules for the Andhra Pradesh Panchayat Raj Engineering Subordinate Service issued in G.O. Ms. No. 244, Panchayat Raj, dt. 6-3-1963 in favour of the temporary Supervisors mentioned hereunder to enable their services being regularised with retrospective effect from the dates of their temporary appointments as Supervisors.

Sarwasri:

1. K. Ganga Raju
2. R. Appala Naidu
3. D. Kanakaiah
4. R. Chakradhara Rao
5. B. Suryanarayana Rao
6. M. Suryamarayana Rao
7. D. Koteswara Reddy
8. B. P. Venkata Raju
9. A. Pedsambayya

10. E. Gani Raju Under Rule 47 of the A.P. State and Subordinate Service Rules, the Governor of Andhra Pradesh hereby also relaxes No. 2 under Rule 2 of the A.P. Panchayat Raj Engineering Subordinate Service issued in G.O. Ms. No. 244, Panchayat Raj, dated 6-3-1963 in favour of Sri M.

Krishna Reddy, Supervisor to enable his services being regularised with retrospective effect from the date of his temporary appointment as Supervisor.

2. Government have also decided that all the promottee Supervisors placed under similar circumstances as those mentioned in para 1 above be also regularised as Supervisors with retrospective effect from the date of their first appointment as Supervisors and that the seniority of all the promotee Supervisors including those mentioned in para 1 above be fixed in accordance with the rules.

3. The Chief Engineer, Panchayat Raj is requested to take immediately necessary action to issue notices to all the Supervisors who would be affected by the orders issued in para 2 above to file their objections, if any, within 15 days and submit the objection if, any, received to Government along with his remarks on each of them for consideration.

6. From a reading of the above it is clear that operation of Rule 34 has been relaxed and the requirement of five years' service to qualify for promotion as supervisor is also relaxed under Rule 47. The effect of it would be as under: Even though the petitioners/appellants were not approved probationers as overseers which was prescribed under Rule 34, they became such approved probationers.

7. Equally, irrespective of the fact that G.O. Ms. 244 dated 6-3-1963 was retrospective in its operation i.e. 1-11-1960 by reason of this relaxation under G.O. Ms. 254, the requirement of five years as a pre condition for promotion could not be insisted upon. It does not matter as far as the petitioners/appellants are concerned, how G.O. Ms. 254 came to be passed. They should have the benefit of this Government Order which benefit they are entitled to legitimately. This Court also put its Imprimatur on that position. Therefore, in our considered view, the Tribunal erred in holding that the petitioners/appellants were not approved probationers of service as overseers and that deficiency could not be overcome.

8. In the result, the writ petition and the civil appeals will stand allowed. The original seniority accorded to these persons will stand undisturbed. We take it clear that the relief that we have granted would confine only to the writ petitioners and the appellants before us and no one else. Relief granted confines only to the following petitioners/appellants:

9. It follows that they will be entitled to all consequential benefits both monetary and promotional chances. We, however, make it clear that we are not expressing any views about the ranking accorded to the direct recruits by the Service Commission. No costs.

10. It is open to the State to so adjust the claims of these five persons without disturbing the promotions already accorded to the respondents concerned.

S.L.P.(C) Nos. 3247/86, 60/88 and 6574/87

11. In view of the above order, these special leave petitions will stand dismissed. No costs.