

Supreme Court of India

N.K. Durga Devi vs Commissioner Of Commercial ... on 2 April, 1997

Equivalent citations: JT 1999 (4) SC 649, (1997) 11 SCC 91

Bench: S V Manohar, V Khare

ORDER

1. The dispute in the present appeal has arisen as a result of Government Order No. 569 issued by the Government of Andhra Pradesh on 22-5-1986 in exercise of its power of relaxation under Rule 47 of the Andhra Pradesh State and Subordinate Services Rules, giving a notional seniority to Veda Prakash, Respondent 3 in the appeal, in the cadre of Superintendents from 18-9-1981 instead of his actual date of promotion which was 17-5-1983. The appellant who was promoted as Superintendent on 2-5-1983 had been considered as senior to Veda Prakash in the cadre of Superintendents prior to this change of date. She was promoted as Deputy Commercial Tax Officer. But in view of this order she has become junior to Veda Prakash. By a consequential order dated 2-7-1987 the appellant was reverted as Superintendent. The appellant challenged the order of 2-7-1987 by filing a petition which was ultimately heard by the Andhra Pradesh Administrative Tribunal. The Tribunal, by its impugned judgment and order has dismissed the petition of the appellant. The present appeal is from this judgment and order.

2. It is an accepted position that before GO No. 569 was issued, neither notice nor hearing was given to the appellant who is directly affected by GO No. 569.

3. In view of the decisions of this Court in Govt. of A.P. v. D. Janardhana Rao R.R. Verma v. Union of India and Amrik Singh v. Union of India , it is conceded by the learned Counsel for Respondent 3 that the order of relaxation could not have been validly passed without giving notice to all affected parties since that would be in violation of the principles of natural justice. The position in law is quite clear. A relaxation order which affects rights of third parties, if passed in violation of the principles of natural justice and without giving a hearing to the affected parties would be void, or in any event, unenforceable in law. The impugned Government Order No. 569 dated 22-5-1986 is, therefore, set aside.

4. It will, however, be open to the authorities concerned to pass an appropriate relaxation order if they consider it necessary in accordance with law.

5. The appeal is allowed and the decision of the Andhra Pradesh Administrative Tribunal is set aside. In the circumstances of the case, however, there will be no order as to costs.

6. In view of the order passed above in the appeal, no orders are necessary in the special leave petition. The same is disposed of accordingly.