

Supreme Court of India

State Of Orissa & Anr vs Dr. Prari Mohan Misra on 6 February, 1995

Equivalent citations: JT 1995 (2) 54

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

STATE OF ORISSA & ANR.

Vs.

RESPONDENT:

DR. PRARI MOHAN MISRA

DATE OF JUDGMENT 06/02/1995

BENCH:

RAMASWAMY, K.

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RAMASWAMY, K.

VENKATACHALA N. (J)

CITATION:

JT 1995 (2) 54

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Delay condoned. Heard learned counsel for the parties.

2. Leave granted.

3. This appeal arises from the order dated April 12, 1993 passed by the Orissa Administrative Tribunal, Bhubaneshwar, in T.A.No.50/90. Admittedly, the respondent was appointed as Director of Fisheries on August 12, 1971, on ad-hoc basis. Thereafter, by order dated July 22, 1972, he was directed to continue temporarily until further orders. It would appear that the government had taken policy decision to appoint an I.A.S. officer to man the post of the Director, Fisheries. By Notification dated March 18, 1977, the Government has reverted the respondent from the post of Director to the post of Joint Director. The respondent had voluntarily retired from service on 16.12.77. The only controversy is whether the reversion of the respondent is valid in law. It is

pointed out by Mr.J.R.Das, learned counsel for the respondent, that the respondent was appointed after consultation and with the concurrence of the Public Service Commission. Therefore, his appointment must be deemed to be a regular appointment. Thereby without conducting an enquiry and an opportunity for misconduct, the reversion of the respondent to the post of Joint Director, is illegal. We find no force in the submission.

4. Admittedly, there is no order communicated to the respondent appointing him in a substantive capacity as Director. The only order passed in his favour was of July 22, 1972. That order clearly shows that he would continue temporarily until further orders in terms of the order of appointment made on ad-hoc basis on August 12, 1971. In other words, mere prolonged of continuous ad-hoc service does not ripen into a regular service to claim permanent or substantive status. He would remain to be on ad-hoc basis until further orders. Since the government had taken policy decision to appoint an I.A.S., he was rightly reverted to the post of Joint Director. Accordingly, we hold that his reversion is perfectly legal and valid. However, the stark facts remain that he continued in the post of Director and discharged his duties as Director from August 12, 1971. In these circumstances, as a mark of good gesture but not as a precedent, the appellants are directed to give him pensionary benefits computing his pay as if he voluntarily retired as a Director from December 16, 1977. All the proceedings now stand concluded. The T.A. stands dismissed. The appeal is disposed of accordingly. No costs.