

Supreme Court of India

Joyachan M. Sebastian vs The Director General & Ors on 23 August, 1996

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

JOYACHAN M. SEBASTIAN

Vs.

RESPONDENT:

THE DIRECTOR GENERAL & ORS.

DATE OF JUDGMENT: 23/08/1996

BENCH:

RAMASWAMY, K.

BENCH:

RAMASWAMY, K.

G.B. PATTANAIK (J)

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

We have heard the learned counsel on both sides. The only question for consideration is: Doordarshan Kendra, Trivandrum that he would not claim his seniority held in Salem w.e.f. August 19, 1984.

Shri E.M.S. Anam, learned counsel for the appellant contended that since the transfer had come to be made due to administrative exigencies, viz., abolition of the post and creation of the post and availability of the vacancy in Tamil Nadu, the transfer was not on account of the request made by the appellant and that, therefore, the seniority had to be reckoned from the date of his initial appointment, i.e., September 21, 1983. We find no force in the contention.

It is now settled legal position that on abolition of the post, the holder of the post has no right to continue on the post. Instead of retrenching him as surplus, the Government have accommodated him in the available vacancy and, therefore, it must be deemed to be a fresh appointment for the purposes of seniority. After joining in Salem in Tamil Nadu, he made a request for transfer to

Trivandrum and it is at his request that he was transferred. Consequently, on his undertaking in the application that he would not claim his seniority at Salem Station, the transfer was effected at his request. It is settled legal position that he would take his seniority as junior-most among the confirmed employees in the transferee-region.

Considered from this perspective, we are of the view that the Tribunal has not committed any error of law warranting interference.

The appeal is accordingly dismissed. No costs.