

Supreme Court of India

State Of Gujrat vs C.G. Raiyani on 21 November, 1994

Equivalent citations: 1995 SCC (2) 40, 1994 SCALE (5)252

Author: K Ramaswamy

Bench: Ramaswamy, K.

PETITIONER:

STATE OF GUJRAT

Vs.

RESPONDENT:

C.G. RAIYANI

DATE OF JUDGMENT 21/11/1994

BENCH:

RAMASWAMY, K.

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RAMASWAMY, K.

VENKATACHALA N. (J)

CITATION:

1995 SCC (2) 40

1994 SCALE (5)252

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. Delay condoned.

2. Leave granted.

3. The admitted facts are that the respondent was appointed on ad hoc basis on 20-5-1969 as a Junior Engineer in Junagadh District Panchayat. Thereafter the Panchayat Services Selection Board was constituted to recruit the candidates for regular appointment. The Board selected and recommended the candidates for regular appointment among whom the respondent was one of the selected candidates. As per the provisional seniority list, the respondent was considered for temporary promotion to the + From the Judgment and Order dated 2-9-1993 of the Gujarat High Court in S.A. No. 81 of 1986 post of Deputy Executive Engineer and was appointed on 6-3- 1978. Thereafter it would appear that the service of the person working in the Panchayats has been

provisionalised and the common seniority list was prepared of the employees belonging to the State service as well as the Panchayat Departments. Therein, the respondent's name had figured at Serial No. 69. After issuing show-cause notice to all the persons and after considering their objections, the Government in their proceedings dated 10-11-1981, Annexure 47, determined the inter se seniority. Therein the respondent's seniority was shown at Serial No. 109. After finalisation of the inter se seniority, he was reverted as Junior Engineer on 4-1-1982. The respondent challenged the demotion by filing a suit. The suit was decreed and on appeal, it was confirmed. S.A. No. 81/86 dated 2-9-1983 was dismissed. Thus this appeal by special leave.

4. While regularising the service by order dated 11-11-1981, clause V thereof provided the criteria for fixation of the inter se seniority as under:

"The length of continuous service in respect of both the services viz. State and Panchayat has been determined with reference to the continuous date of joining service on temporary establishment after regular appointment ignoring the earlier service rendered by them on work charged or temporary establishment prior to the selection/regular appointment."

On the basis of this principle, the inter se seniority has been determined. Admittedly, the appointment of the respondent on 20-5-1969 was made on ad hoc basis without following any acceptable process of selection. He had also applied for and was selected for regular appointment by the Panchayat Services Selection Board and the regularisation was sought to be made with effect from the date of the selection, namely, 15-7-1972. Hence, the ad hoc service rendered by the respondent between 20-5-1969 to 14-7-1972 was not taken into account, in that his seniority had been counted only from the date of the selection, namely, 15-7-1972. Admittedly, that date has been given to the respondent as well as those that were temporarily appointed and were selected. Thereby, the respondent's seniority should be counted only from that date. The civil courts as well as the High Court have committed grievous error of law in fixing the seniority of the respondent from the initial date of fortuitous appointment namely, the ad hoc appointment made on 20-5-1969. The appeal is accordingly allowed. Judgments and decrees of courts below are set aside. No costs.