

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6577 OF 1997@@

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Ramnath Narayan Pai and Anr. .. Appellants

Vs.

Government of Goa & Ors. .. Respondents

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This appeal is directed against an order dated 7.5.1997 of the High Court of Mumbai, Panaji Goa in Writ petition No. 384/1991 filed by the appellants challenging the appointment of respondent Nos. 3 to 12 as Upper Division Clerks in the services of the Town and Country Planning Department.

At the relevant time, it is pointed out that the Rules enabled either promotion from the cadre of Lower Division Clerk to the post of Upper Division Clerk or by transfer on deputation. It is pointed out that ten vacancies were available in the posts of Upper Division Clerks but no Lower Division Clerk was eligible for promotion as none had completed the period of three years or more of the regular service. Respondent Nos. 3 to 12 were appointed by direct recruitment but not as a result of transfer on deputation. It is in those circumstances, the Writ petition was filed.

During pendency of the Writ petition a notification was issued on 27.1.1992 making Rules under Article 309 of the Constitution retrospectively with effect from 1.1.1991 and in terms thereof the appointments are held to be valid. The High Court initially entertained some doubts as to the manner in which the amendments to rules were made and the Chief Secretary was asked to file an affidavit. However, the High court ultimately considered that no vested rights of the appellants are affected and dismissed the Writ petition. We think the line of reasoning adopted by the High Court is perfectly in order and calls for no interference. The appeal is, therefore, dismissed.

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