

S U P R E M E C O U R T O F I N D I A
 RECORD OF PROCEEDINGS
 CIVIL APPEAL NO(s). 595 OF 2003

T.V. UDAYABHANU & ANR.

Appellant (s)

VERSUS

KERALA PANCHAYAT EXE.OFFICERS ASSON.&ORS

Respondent(s)

(With office report)

WITH Civil Appeal NO. 596 of 2003(With office report)

Civil Appeal NO. 597-598 of 2003(With office report)

Date: 24/11/2009 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU

HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) C.S. Rajan, Sr. Adv.

Mr. A. Raghunath,Adv.

Mr. C.S. Rajan, Sr. Adv.

Mr. Fazlin Anam, Adv.

Mr. E.M.S. Anam

Mr. B.V. Deepak,Adv.

Mr. Dilip Pillai, Adv.

For M/S. T.T.K. Deepak & Co., advs.

For Respondent(s)

Mr. P.V. Dinesh,Adv.

Ms. Sindhu T.P., Adv.

Mr. Jojo Jose, Adv.

Mr. P. Rajesh, Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A. No. 595/2003 & C.A. No. 596/2003

The appeals are allowed in terms of the signed order. No order as to the costs.

C.A. Nos. 597-598/2003

In terms of the order passed in C.A. No. 595/2003 these appeals stand disposed of. No order as to the costs.

(Ajay Kr. Jain)
 Court Master

(Indu Satija)
 Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 595 OF

2003

T.V. Udayabhanu & Anr.

....

Appellants

Versus

Kerala Panchayat Executive
 Officers Association & Ors.

....

Respondents

WITH

C.A. NO. 596/2003 and C.A. Nos. 597-598/2003

O R D E R

C.A. No. 595/2003

Heard learned counsel for the parties.

This appeal has been filed against the impugned judgment and order dated 18.07.2000 of the High Court of Kerala. The facts have been set out in detail in the impugned judgment and hence we are not repeating the same here.

It appears that certain employees were appointed by the Panchayat Department of the State of Kerala while others had been appointed by the Panchayats. In order to constitute a common cadre, by an order dated 3.2.1987 Panchayat employees were treated as government employees. Thereafter by Gazette Notification dated 21.6.1994, which was given retrospective effect from 1.1.1990, the two services were integrated under the Kerala Panchayat Subordinate Service Rules.

The departmental employees fled a writ petition before a learned Single Judge of the High Court challenging the aforesaid Rules published in the Gazette Notification dated 21.6.1994. The said writ petition was dismissed. Against the dismissal of the writ petition, a Letters Patent Appeal was filed which has been allowed by the Division Bench of the High Court by the impugned judgment and order. Hence, this appeal by special leave.

The Kerala Panchayat Subordinate Service Rules framed on 21.6.1994 have been framed under Section 2(1) of the Kerala Public Services Act read with Section 179(3) and 180(4) of the Kerala Panchayati Raj Act. Section 2(1) of the Kerala Public Services Act itself states that rules can be framed under the said Act retrospectively.

Although normally delegated legislation cannot be with retrospective effect, it can be so if the statute under

which that delegated legislation is framed itself permits such retrospective framing of rules. Since the Kerala Public Services Act under which the Kerala Panchayat Subordinate Service Rules have been framed itself provides that the rules can be framed retrospectively, we see no invalidity in the same. It may be mentioned that after the merging of the two services, the employees became government servants and hence, in our opinion, the Kerala Public Services Act will apply. Hence, we disagree with the view taken by the Division Bench of the High Court in the impugned judgment. Accordingly, we set aside the impugned judgment and order and allow this appeal. However, we make it clear that if there were any departmental employees who were regularly promoted in accordance with the relevant rules, they will not be affected but the provisional promotees during the period 11.1.1990 to 20.10.1993 will not get the benefit of their promotion though will not be reverted.

Appeal allowed. No order as to the costs.

C.A. No. 596/2003

In view of the order passed in C.A. No. 595/2003, this appeal is also allowed and impugned judgment and order is set aside. No order as to the costs.

C.A. No. 597-598/2003

In terms of the order passed in C.A. No. 595/2003, these appeals stand disposed of. No order as to the costs.

.....J.
(MARKANDEY KATJU)

.....J.
(R.M. LODHA)

NEW DELHI;
NOVEMBER 24, 2009