

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2013
(SPECIAL LEAVE PETITION(C.)NO.30636 OF 2009)

COMM.& DIRECTOR OF AGR.& ANR.

APPELLANTS

VERSUS

P.SUDHKAR RAO & ANR.

RESPONDENTS

O R D E R

1. Leave granted.

2. This appeal is directed against the judgment and order passed by the High Court of Andhra Pradesh at Hyderabad in Writ Petition No.13538 of 2004, dated 05.03.2009. By the impugned judgment and order, the High Court has set aside the memo dated 28.02.1999 as well as the order passed by the Andhra Pradesh Administrative Tribunal dated 11.02.2004 and has directed the appellants to fix the seniority of the respondents from the date of their selection i.e. from the year 1982.

3. The vacancies for the post of Agricultural Officers were notified during the year 1978-1981 by the Director of Agriculture. The names of the respondents were sponsored by the Employment Exchange for the aforesaid posts. The interviews were held, where they were selected by the Selection Committee and their names were included in the list of selected candidates. A list was drawn out from which recruitments could be made from time to time during the year to meet the vacancies arising in the department. The candidates

: 2 :

so sponsored by the employment exchange were selected but were put in the waiting list to be appointed as and when the vacancies arise. In the meanwhile, a ban was imposed by the Government on 05.03.1982 on direct recruitment through employment exchange for the post in question and gave a direction that the future vacancies be filled through the Andhra Pradesh Public Service Commission. The aforesaid ban imposed by the government affected the appointment of selected candidates including the respondents.

4. The respondents including several others preferred writ petition before the High Court questioning the memo for imposing the ban on their selection. The High Court by its judgment and order directed them to approach the Tribunal. The Tribunal while allowing the petition preferred by the respondents had directed the appellants-Authority to consider their case for appointment as Agricultural Officers. The appellants after seeking direction of the High Court for implementation of the orders passed by the Tribunal has issued G.O. Ms. No.1887 dated 07.09.1990, appointing the respondents as Agricultural Officers in Zone-V.

5. It is not in dispute nor can it be disputed by the respondents that the letters of appointment were issued in the year 1990. Since the seniority was not fixed, the respondents had preferred Writ Petition No. 13538 of 2004 before the High Court seeking for seniority at par with the agricultural officers appointed in the year 1982.

: 3 :

6. The High Court by its judgment and order allowed the writ petition filed by the respondents and opined that since the respondents were selected and were not issued with the letters of appointment, despite of the fact that they were issued with the letter of appointment in the year 1990, their appointment should be taken from the year 1982 i.e the date of selection and not from the date of issue of appointment letter.

7. Heard learned counsel for the parties to the lis.

8. After carefully going through the judgment and order passed by the High Court, we are of the opinion that the thinking and the reasoning of the Division Bench of the High Court is wholly contrary to the principles of service law jurisprudence and cannot be sustained. For the understanding of the current proposition of law, it is pertinent to observe the ordinary meaning of the terms 'selection' and 'appointment'. The term 'selection' connotes and signifies recruitment, enlistment, acceptance or approval for appointment. In contradistinction, the word 'appointment' means an actual act of posting a person to a particular office. Therefore, the meaning of selection is akin to recruitment. The term recruitment cannot tantamount to an appointment as laid down in the case of Prafulla Kumar Swain v Prakash Chandra Misra, 1993 Supp(3)181. Therefore, in the facts of the present case, merely being selected without obtaining the letter of appointment would mean that the selected candidates were not still born into the service and therefore the period would not be counted as service for the purpose of seniority under the government. To add to the above

: 4 :

observation, the AP State and Subordinate Services Rules, 1996 ("the rules" for short) do not suggest the seniority of a person to be determined only on the basis of the date of selection. If the services for the purpose of seniority are reckoned from the date of selection and not from the date of issue of letter of appointment, then it would be contrary to the applicable rules and the settled principles of service law.

9. In view of the above, we allow this appeal and set aside the judgment and order passed by the High Court. Now we direct that the seniority of the respondents shall be fixed from the date of the issuance of the appointment letter. No costs.

10. The Civil Appeal is disposed of accordingly.

Ordered accordingly.

.....J.
(H.L. DATTA)

.....J.
(PINAKI CHANDRA GHOSE)

NEW DELHI;
OCTOBER 25, 2013
ITEM NO.33

COURT NO.4

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).30636/2009

(From the judgement and order dated 05/03/2009 in WP No.13538/2004 of the HIGH COURT OF JUDICATURE OF A.P. AT HYDERABAD)

COMM.& DIRECTOR OF AGR.& ANR.

Petitioner(s)

VERSUS

P.SUDHKAR RAO & ANR.

Respondent(s)

(With office report)

Date: 25/10/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Petitioner(s) Mr.Koka Raghava Rao, Sr.Adv.
Mr.D.Mahesh Babu, Adv.
Ms.Suchitra Hrangkhawl,Adv.

Mr. G.N.Reddy,Adv.(NP)

For Respondent(s) Mr.G.V.R.Choudary, Adv.
Mr.A.Chandra Sekhar, Adv.
For Mr. K. Shivraj Choudhuri,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The Civil Appeal is allowed and disposed of with no costs, in terms of the signed order.

(G.V.Ramana)
Court Master
(signed order is placed on the file)

(Vinod Kulvi)
Asstt.Registrar