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S.P. BADRINATH  
v.  
GOVT. OF A.P. AND ORS. ETC. ETC.

SEPTEMBER 16, 2003

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[V.N. KHARE CJ, BRIJESH KUMAR AND S.B. SINHA, JJ.]

*Service Law:*

*Andhra Pradesh Ministerial Service Rules, 1966:*

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*R.23—Promotion—Criterion—Passing of certain examination—Seniority—Senior Accountant, in Chief Electrical Inspectorate earlier called the Electricity Department—Promoted as Senior Assistant subject to his passing of the Accounts test for Subordinate Officers Part I within a period of two years—He passed the test after expiry of the said period—*

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*His seniority and further promotion as Superintendent challenged—Tribunal held that since the appellant did not pass the requisite examination he was junior to the respondents—Held, the date of the passing of the examination would be the date for the purpose of reckoning the seniority of the employees concerned vis-à-vis the other employees—Undisputedly*

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*services of the appellant were governed by the Rules—Electricity Department of the State is one of the Departments specifically mentioned in the Rules which provide that passing of the Accounts Test for Subordinate Officers Part I is an essential qualification for holding the post of Senior Assistant—Appellant was not entitled to be shown as senior to the respondents.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7633-7635 of 1997.

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From the Judgment and Order dated 24.4.96/27.4.96 of the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A. No. 2345, 5321 and 5454 or 1995.

G.R.K. Prasad and Mohd. Wasay Khan for S.U.K. Sagar for the Appellant.

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Rajiv Talwar, T.V. Ratnam and K. Subba Rao for the Respondents.

The following Order of the Court was delivered :

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The short question that arises for consideration in the present appeals is as to whether passing of the Accounts test for the post of Senior Assistant was a pre-requisite. The contention of the appellant is that since the Andhra Pradesh Ministerial Service Rules, 1966 did not apply to the Department of Chief Electrical Inspectorate, the said condition is not applicable in his case.

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The appellant was appointed in the year 1984 as Junior Assistant under the Chief Electrical Inspectorate. It is relevant to mention here that prior to the year 1970, the Chief Electrical Inspectorate was called 'the Electricity Department', headed by the Chief Engineer. After constitution of the Andhra Pradesh Electricity Board, the Electricity Department became 'the Chief Electrical Inspectorate' headed by the Chief Electrical Inspector in place and instead of the Chief Engineer. On 12th November, 1987 the appellant was promoted as a Senior Assistant subject to his passing the Accounts test within a period of two years. The appellant passed the said examination after expiry of the said period of two years. He was, however, promoted to the post of Senior Assistant on 10th December, 1989. In the year 1995 the appellant was promoted as a Superintendent.

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It is at this stage the respondents herein challenged the promotion and seniority of the appellant before the Andhra Pradesh State Administrative Tribunal. The Tribunal disposed of the O.As. and held that since the appellant did not pass the requisite examination, therefore, he was junior to the respondents herein. It is against the said judgment of the Tribunal, the appellant is in appeal before us.

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While entertaining these petitions, this Court granted leave confined to direction No. 13(c) of the order of the Tribunal, which runs as under :

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"13(c) While preparing the seniority list of Senior Assistants, the relevant criteria among others, to be applied are that passing of Accounts Test for Subordinate Officers Part-I is necessary for promotion to the rank of Senior Assistant from Junior Assistant."

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A It is not in dispute that the services of the appellant were governed by the Andhra Pradesh Ministerial Service Rules, 1966. Rule 23 of the said Rules provide for special qualifications required to hold certain posts. Electricity Department of the State of Andhra Pradesh is one of the Departments specifically mentioned in the said Rules. It has been provided  
B therein that passing of the Accounts Test for subordinate officers Part I is an essential qualification for holding the post of Senior Assistants. It is not the case of the appellant herein that the Chief Electrical Inspectorate at any point of time ceased to be a Department under the Government of Andhra Pradesh or by reason of creation of Chief Electrical Inspectorate in the State  
C in place of the Department of Electricity, the service conditions of the appellant were no longer governed under the Andhra Pradesh Ministerial Service Rules. In that view of the matter, there cannot be any doubt whatsoever that the said Rules were applicable in the case of the appellant throughout. Only because at a later stage a notification was issued by the Government of Andhra Pradesh to the effect that the Head of the Chief  
D Electrical Inspectorate shall be the Chief Engineer in place of Chief Electrical Inspector; the same by itself would not mean that the Andhra Pradesh Ministerial Service Rules and in particular Rule 23 aforementioned, had specifically been made applicable in case of the employees of the Chief Electrical Inspectorate only thereafter. Once it is held that the office of the  
E Chief Electrical Inspector or the Chief Engineer, as the case may be, was a Department of the Government of Andhra Pradesh, Rule 23 must be held to be applicable. In that view of the matter, the judgment of the High Court cannot be faulted, inasmuch as the date of passing of the examination would be the date for the purpose of reckoning the seniority of the employees concerned *vis-a-vis* the other employees. In that view of the  
F matter, the appellant was not entitled to be shown as senior to the respondents.

In view of the above, the appeals are dismissed. There shall be no order as to costs.

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R.P.

Appeals dismissed.