

A RAMESH CHANDRA SHARMA & ORS.

v.

STATE OF MADHYA PRADESH & ANR.

(Civil Appeal Nos.10787-10788 of 2017)

B AUGUST 23, 2017

[KURIAN JOSEPH AND R. BANUMATHI, JJ.]

Service Law:

C *Forest Service – Promotion – Fixation of seniority under Madhya Pradesh Class III (Non-Ministerial) Forest Service Recruitment Rules, 1967 – The Foresters, who were recruited and deputed to different circles, approached the Tribunal with a specific grievance that on account of posting in a particular circle, some of the Foresters got accelerated promotions to the post of Deputy Ranger and, thereafter to the post of Forest Ranger; thereby, the*
D *erstwhile juniors in the cadre of Foresters in the same service, solely on fortuitous circumstances, became their seniors in the cadre of Rangers – Held: The legal position is that the members of the same service getting accelerated promotion merely on account of*
E *fortuitous postings in a particular circle cannot steal a march over their seniors in the higher posts in the same service – However, in the instant case, none of the parties could explain how the seniority is fixed in the cadre of Foresters, Deputy Rangers and Rangers – Therefore, matter is remitted to High Court for consideration afresh – Appeal disposed of.*

F CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.10787-10788 of 2017.

From the Judgment and Orders dated 07.11.2003 and 19.03.2004 passed by the High Court of Madhya Pradesh at Jabalpur in Writ Petition No.4717 of 2001 and Review Petition MC.C No.372 of 2004 respectively

G WITH

Civil Appeal Nos.10791-10792 of 2017.

Civil Appeal No.10793 of 2017.

Civil Appeal Nos.10789-10790 of 2017.

H

Amalpushp Shroti, Adv. for the Appellants. A

Mishra Saurabh, Ankit Kumar Lal, Advs. for the Respondents.

The Judgment of the Court was delivered by

KURIAN, J. 1. Leave granted.

2. The simple issue for consideration in this case pertains to the fixation of seniority under the Madhya Pradesh Class III (Non-Ministerial) Forest Service Recruitment Rules, 1967. Under Rule 4, the 'service' consists of, for the purpose of the case before us, Serial No. 1 – Forest Ranger, Serial No. 7 – Deputy Ranger and Serial No. 16 – Forester. B

3. It appears that the Foresters, who were recruited and deputed to different circles, approached the Tribunal with a specific grievance that on account of posting in a particular circle, some of the Foresters got accelerated promotions to the post of Deputy Ranger and, thereafter to the post of Forest Ranger, thereby, the erstwhile juniors in the cadre of Foresters in the same service, solely on fortuitous circumstances, have become their seniors in the cadre of Rangers. It is further submitted that it has affected their future prospects as well. C D

4. The Tribunal, by order dated 12.05.1999, held as under :-

"....Promotion to the post of Deputy Ranger in different circles would not only merely depend upon the number of vacancies available in the circle but also on fortuitous circumstance of the timing of the meeting of the Departmental Promotion Committee over which no Forester would have any control. The system is iniquitous and unfair and likely to prejudice the Senior Foresters. Since the recruitment is made centrally to the post of Forester and they are appointed simultaneously after training, it is necessary that the inter-se-seniority at the time of their appointment to the service is maintained and that such inter-se-seniority does not get altered for no fault of the Senior Foresters on account of the system which is adopted by the respondent State in making promotions to the post of Deputy Rangers. Since the promotion from the post of Deputy Ranger to the post of Ranger is made at the State Level and for this purpose, seniority list of Deputy Rangers is drawn out at the State level, the promotion to the post of Deputy Ranger should also be made by a Central Screening/ E F G H

A *Promotion Committee so that the interest of the Senior Foresters is safeguarded and they get their promotion earlier than their juniors.....”*

5. In these circumstances, the Tribunal took the view at Paragraph 9 as under :-

B *“...The correct course in our view would be that inter-seniority for promotion of Deputy Ranger to the post of Rangers should be reckoned on the basis of their inter-seniority in the cadre of Foresters irrespective of their date of promotion to the post of Deputy Ranger, provided that a person has not been superseded in promotion from the post of Forester to the post of Deputy Ranger, as a superseded person cannot claim his original seniority in the cadre from which the promotion is made....”*

C

D 6. That was challenged before the High Court, leading to the impugned Judgment dated 07.11.2003 in Writ Petition No. 4717 of 2001. The Division Bench took the view as under :-

E *“...On a perusal of the order of the Tribunal we are of the considered opinion that the Tribunal should not have dwelled upon the issue as the Rules were not called in question and should not have disturbed the seniority list in the manner in which it has been done. Quite apart from the above, the Tribunal has taken a different view while appreciating the contentions of the State though the same could not be done in that manner....”*

F 7. The learned counsel for the appellants would contend that the Foresters having entered service based on the State level selection, merely on account of posting in a particular circle on various circumstances, they cannot steal a march over their seniors in the further promotion, in any case, to the post of Forest Ranger, even by conceding that such Foresters may get an accelerated promotion to the post of Deputy Ranger. The learned counsel for the State submits that the recruitment is circle level, seniority is circle level and the promotions are also circle level.

G

8. Neither side is in a position to convince us as to how the seniority is fixed in the cadre of Foresters, Deputy Rangers and Rangers.

H

9. On the pure question of law, we would like to make the legal position clear that members of the same service getting accelerated promotion merely on account of fortuitous postings in a particular circle cannot steal a march over their seniors in the higher posts in the same service. A

10. However, since we are not quite clear with regard to rules regarding selection and fixation of seniority and as we are not getting assistance in that regard, we set aside the Judgment of the High Court and remit the matter to the High Court for consideration afresh. We request the High Court to dispose of the matter expeditiously and preferably within six months from today. B

11. In view of the above, the appeals are disposed of. C

No costs.

Devika Gujral

Appeals disposed of.