

A.P.S.E. Board and ors. Vs. B. Subba Reddy and anr.

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Court : Andhra Pradesh

Decided On : Apr-20-1999

Reported in : 1999(3)ALT617

Judge : M.S. Liberhan, C.J. and ;A.S. Bhate, J.

Acts : Service Law

Appeal No. : Writ Appeal No. 528 of 1999

Appellant : A.P.S.E. Board and ors.

Respondent : B. Subba Reddy and anr.

Advocate for Def. : S.V. Indira, Adv.

Advocate for Pet/Ap. : R. Ramanujam, SC

Disposition : Appeal dismissed

Judgement :

M.S. Liberhan, C.J.

1. The respondents were initially employed with the Public Works Department in the year 1969 and subsequently vide proceedings dated 12-3-1975 of the Executive Engineer, Field Machinery Division, they were transferred to the appellant-APSEB, on permanent basis and posted in various wings. B.P. Ms. No.

904, dated 27-9-1984 provided that the Drivers who have put in ten years of service shall be entitled to the Grade II Scale of Pay and the Drivers who have completed 15 years of service are entitled for Grade I Scale of Pay. Concedingly, since the respondents have put in requisite service in the posts wherein there was no promotional avenue, their case is squarely covered by the B.P.Ms. No. 904, dated 27-9-1984.

2. The stand of the appellant-Board is that the respondents were not regular employees before 1995, consequently they are not entitled to the benefits of B.P.Ms. No. 904, dated 27-9-1984. The second stand taken by the Board is that the respondents have been permanently absorbed in the year 1995 in the post which have got promotional avenues. Consequently, they are not entitled to the benefits under B.P.Ms. No. 904, dated 27-9-1984.

3. The contention of the Board has been rejected by the learned single Judge. The learned Judge found that the respondents are entitled to the benefits of B.P.Ms. No. 904, dated 27-9-1984.

4. Learned Counsel for the appellant-Board has vehemently impugned the order of the learned single Judge inter alia contending that the respondents were working only as surplus staff and they were not in the permanent cadre of the Board. Consequently, they are not entitled to the benefits of B.P.Ms. No. 904, dated 27-9-1984.

5. We find no force in the contention of the learned Counsel for the appellant in view of the factual matrix from the record which is not disputed, that is to say, the respondents were permanently appointed in the Public Works Department on 2-12-1969 and subsequently transferred on permanent basis to the appellant-Board. The appellant has not placed anything on record from which it can be inferred that the respondents were not transferred on permanent posts to the appellant. While dealing with the writ petition, the learned single Judge, by the impugned judgment referred to the proceedings dated 5-11-1974, 26-2-1975 and 12-3-1975 and came to the conclusion that the services of the respondents were transferred on permanent basis to the appellant-Board and that they were permanently absorbed as employees of the APSEB. The contention that the appellants have been

permanently absorbed in 1995 has not been considered in the impugned judgment and it appears to be an afterthought introduced for the first time in the appeal. Even if assuming it to be so, on the factual matrix it is not disputed that the respondents were employed permanently by the Public Works Department as far back as 1969 and thereafter have been transferred in 1975 to the appellant and they were never subjected to retrenchment as a surplus staff till 1995 and that is how 20 years have gone by. It would be the just expectation of an employee that he should be permanently absorbed. When the respondents were allowed to work on a permanent basis for almost two decades, the appellant-Board cannot be permitted to turn round to deprive the respondents of their financial benefit of a regular grade provided by the B.P.Ms. No. 904, dated 27-9-1984, which has been issued to benefit those persons who have served the Board for 10 to 15 long years. The appellant-Board by its own act and conduct expressly and even impliedly accepted the respondents as their permanent employees having been transferred by the Public Works Department with whom they were employed permanently. Merely because of some order being passed in the year 1995 for absorption of respondents permanently by the appellant-Board, the appellant cannot be allowed to turn round and contend that the respondents were working as work charged employees on specific post for a specific period of time. We find no force in this contention.

6. It is next contended that since the respondents have got a chance of promotion in 1995, consequently, they are not entitled to the benefit of B.P.Ms. No. 904. When once the right has been accrued to the respondents in 1984, eleven years prior to 1995, for the benefit, the appellant cannot refuse the same solely on account of the circumstance happening after 11 years of the issuance of the B.P.Ms. The argument that a chance of promotion has no (sic. now) accrued to the respondents after 11 years of the issuance of the B.P.Ms, cannot be accepted and we find no force in this contention. In view of the observations made above, we find no force in the appeal and we find no error in the conclusions arrived at by the learned single Judge. The judgment of the learned single Judge is affirmed. The appeal is dismissed. No costs.

