

**Seva Singh and Others Vs. State of U.P. and Others**

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**Court :** Allahabad

**Decided On :** Sep-11-1998

**Reported in :** 1999(1)AWC69; (1999)1UPLBEC423

**Judge :** D.K. Seth, J.

**Acts :** [Constitution of India](#) - Article 226

**Appeal No. :** C.M.W.P. No. 27853 of 1998

**Appellant :** Seva Singh and Others

**Respondent :** State of U.P. and Others

**Advocate for Def. :** S.C.

**Advocate for Pet/Ap. :** P.C. Jhingan, Adv.

**Judgement :**

**D. K. Seth, J.**

1. The petitioners have challenged the order dated 6th May, 1998 by which it was decided that those Forest Guards who have been promoted to the post of untrained Foresters and below 50 years of age would be sent for training according to their seniority for a period of six months. Mr. P. C. Jhingan, learned counsel for the petitioners submits that at the time of initial appointment 20 to 21

years ago, the petitioners were given training on the posts of Forest Guard in which they were appointed, but he has admitted that the petitioners have never undergone training for the post of Forester. Now it has been decided that the petitioners who have been so promoted should undergo training for the post of Forester. This is being objected by the petitioners by means of this writ petition. Mr. P. C, Jhingan, learned counsel for the petitioners contends that by reason of some training, the petitioners have to spend some amount of money which is 60% of their salary. Though such statement has been made in the representation, but in the writ petition no such statement has been made. Unless any such statement is made in the writ petition, such statement cannot be treated to be part of the pleading. Simply because of the statement made in the annexure without being supported by any pleading, this Court cannot rely on any such statement. The petitioners may have difficulty in under-going training, but when training is necessary part of working on the post of Forester, they have no alternative. Therefore, I do not find any reason to interfere with the order dated 6th May, 1998 particularly when admittedly the petitioners have never undergone training for the post of Forester. The training on the post of Forest Guard cannot be equated with that of the Forester, therefore, the petitioners have no legal right to claim for exemption from such training. The petitioners are governed by the relevant conditions of service. If it is felt necessary by the Administration that training will be imparted to these persons so as to make them fit for the purposes of carrying out their duties and responsibilities, in that event, the employees cannot refuse the same.

2. Employment of a person is for the purpose of obtaining certain service from such person. That is one of the reason why an employment is called service. The moment a person is engaged or employed is supposed to discharge certain function. In lieu of such service the employee is entitled to receive salary or emoluments which is a compensation against such service. The salary or emolument is not paid only because a person has been employed. It is paid in lieu of his service rendered by such employee. When a person is engaged or employed in a particular post, a particular kind of service is expected of him. If such service requires a particular kind of expertise, in that event, the employee must possess such expertise to render such service. In case a person is promoted

from one category to other and such person though capable of discharging duties in the feeder category and if the higher category requires a particular expertise, in that event, it is open to the employer to decide that such person may undergo training to acquire such expertise. The employee has no choice to refuse to undergo such training. It is the employer who is the sole authority to decide as to whether a training is necessary or not. The purpose of promotion to a particular post is to discharge a particular duty or service. If such service requires a kind of expertise which necessitates a particular kind of training, in that event. It is incumbent on the employee to undergo such training. No, option is left to an employee to refuse to undergo such training. Neither an employee can challenge the decision of the employer. It is open to the employer to formulate a policy to that end. In the present case, all such persons who have been promoted in the post of Forester which is admittedly a service which requires certain kind of expertise being in the nature of technical service, the employer decided to impart training to such persons who have been promoted to the post of forester. The employee has no right to challenge such decision on any of the ground of his personal difficulty or otherwise or in the absence of any rule particularly when it is being implemented universally in respect of all such employees. Therefore, the petitioner has not been able to establish any legal right to assail the decision to require him to undergo such training.

3. Thus, there is no merit in the writ petition. The writ petition falls and is accordingly dismissed. However, there will be no order as to cost.

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