

**State of Orissa Vs. Rupnarayan Singh**

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**Court :** Orissa

**Decided On :** Feb-21-1962

**Reported in :** AIR1962Ori189

**Judge :** G.K. Misra, J.

**Appeal No. :** Second Appeal No. 313 of 1960

**Appellant :** State of Orissa

**Respondent :** Rupnarayan Singh

**Advocate for Def. :** B.N. Das and ;N.C. Mohanty, Advs.

**Advocate for Pet/Ap. :** Adv. General and ;R.K. Kar, Advs.

**Disposition :** Appeal allowed

**Judgement :**

**G.K. Misra, J.**

1. The State of Orissa is the appellant against the confirming judgment of the District Judge, Mayurbhanj, The plaintiff-respondent filed the suit for a declaration that the order dated February 13, 1950 reverting the plaintiff from the substantive rank of a Deputy Ranger, to that of a Forester is illegal invalid and inoperative and that the plaintiff is entitled to the rank and pay of, a Deputy Ranger with effect from

February 15, 1950, with a salary of Rs. 72/-per month with usual increments and that the defendant be directed to pay to the plaintiff a sum of Rs. 1460/- as his compensation. The plaintiff's case is that he was appointed Deputy Ranger substantively with effect from May 9, 1948 in the ex-State of Mayurbhanj. Mayurbhanj State merged in the State of Orissa on January 1, 1949. He continued in that post till February 13, 1950 when he was reverted.

2. The defence case is that consequent on the merger, the plaintiff's status as a Government servant was completely wiped out. He was allowed to continue as an officiating Deputy Ranger from Jan. 1, 1949 till February 15, 1950 under the Re-organisation and Retrenchment Scheme which came into effect finally then.

3. Both the Courts below have concurrently found that the plaintiff occupied the post of a Deputy Ranger substantively till February 15, 1950 and the order of reversion was illegal. The finding of the Courts below that the plaintiff was a permanent Deputy Ranger in the Mayurbhanj State was not rightly assailed by the learned Advocate General. He, however, contended that the plaintiff was not appointed substantively with effect from January 1, 1949. The entries in Service Book (Ext. H) do ultimately show that against the plaintiff's name the words 'substantive appointment' were noted even after integration. The learned District Judge discussed this part of the case as follows:

'In Col. 2 which is to the effect 'whether substantive or acting and whether permanent or temporary', the word 'sub' obviously meaning substantive has been written. This entry was made by the Divisional Forest Officer, Baripada Division on 31-12-49 after the merger and, when the plaintiff was serving under the Orissa State. The next entry was also made by the same Divisional Forest Officer on 1-1-1950 and in the relevant columns the plaintiff was shown as Deputy Ranger on Substantive basis.'

4. The law on the point has been well settled by the Supreme Court in *Amar Singh v. State of Rajasthan*, AIR 1958 SC 228. Their Lordships observed:

'Now it is well settled that when one State is absorbed in another, whether by succession, conquest, merger or integration, all contracts of service between the

prior government and its Servants automatically terminate and thereafter those who elect to serve in the new. State, and are taken on by it, serve on such 'terms and conditions as the new State may choose to impose. This is nothing more (though on a more exalted scale) than an application of the principle that underlies the law of Master and Servant when there is a change of masters.'

Their Lordships further observed:

'The old contracts terminated and those who continued in service did so on the basis of fresh contracts, the conditions of which had yet to be determined.'

5. Mr. B.N. Das for the respondent, very rightly conceded that the finding of the District Judge, quoted above, cannot be supported in law merely on the basis, of the entries in the Service Book without proof of the fact that the plaintiff's appointment in a substantive rank was either expressly or impliedly recognised by the State of Orissa. The entries in the Service Book (Ext. H) after January 1, 1949 showing the plaintiff as a Substantive Deputy Ranger were merely a mechanical reproduction of the entries prior to the merger without sanction of the competent authority. To prove recognition, he relied on two documents. Ext. A dated December 30, 1948 is a Circular issued by the State of Orissa indicating the principles which are to be followed in the matter of absorption of the ex-state employees of Mayurbhanj. He also relied on an entry in Ext. H dated 31-12-48 to the following effect:

'Brought into Orissa Revised scale of pay--Vide Conservation of Forests Angul Circle's memo No. 648 (9)/2F/49 dated 3-2-50.'

A copy of this memo has not been brought into evidence. Exact contents of the memo are not before the Court. According to plaintiff's own case, his services were not terminated on December 31, 1948. It has not been made clear how a letter of the year 1950 could be mentioned as against December 31, 1948. From the document filed in court as additional evidence, it is clear that the plaintiff was all through being treated as an Officiating Deputy Ranger by the State of Orissa till February 15, 1950. The onus lies heavily upon the plaintiff to prove that he received recognition of his service in the substantive post of Deputy Ranger either

expressly or impliedly. The plaintiff has signally failed to prove any such recognition.

6. In the result, the plaintiff's suit must fail. The appeal is allowed, but in the circumstances of the case, parties are to bear their own costs throughout.

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