

Thiru A. Balakrishnan and anr. Vs. Govt. of T.N. and ors.

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Court : Supreme Court of India

Decided On : Apr-22-1994

Reported in : 1995Supp(4)SCC108

Judge : Kuldeep Singh,; S.C. Agrawal and; Yogeshwar Dayal, JJ.

Acts : Tamil Nadu State and Subordinate Services Rules, 1955 - Rule 10(a)(i), 23

Appeal No. : Review Petition No. 3432 of 1993 in Civil Appeal No. 3858 of 1993

Appellant : Thiru A. Balakrishnan and anr.

Respondent : Govt. of T.N. and ors.

Disposition : Review petition dismissed

Judgement :

Kuldeep Singh,; S.C. Agrawal and; Yogeshwar Dayal, JJ.

1. We issued notice in the review petition as Mr Chidambaram, learned counsel appearing for the petitioner, contended that the view taken by us goes contrary to the ratio in the judgment of this Court in State of T.N. v. E. Paripoornam¹.

2. We have heard learned counsel for the parties. Mr Chidambaram has reiterated his contention that in view of E. Paripoornam case¹ the service rendered by the appellants prior to the date of regularisation cannot be counted towards seniority. According to him the period of service rendered after the actual date of

regularisation can only be counted towards the fixation of seniority.

3. On the other hand Mr Raju Ramachandran, learned counsel appearing for the appellants has contended that the appointment of the appellants was never made in terms of Rule 10(a)(i) read with Rule 23 of the Tamil Nadu State and Subordinate Services Rules, 1955 (the Rules). According to him the appellants were registered with the employment exchange and as such their appointment could only be made under Rule 10(a) of the Rules. It is further stated by the learned counsel that on the date of their initial appointment on temporary basis the posts against which they were appointed were not within the purview of the Public Service Commission. It is not necessary for us to deal with the contentions raised by Mr Raju Ramachandran. We are of the view that Paripoornam case¹ relied upon by Mr Chidambaram has no relevance to the facts of the present case. In the said case para 3 of the order by which the services of the respondents in the said case were regularised read as under: (SCC p. 424, para 10)

“The inter se seniority of the 21 candidates indicated in the annexure is in accordance with the seniority fixed by the Tamil Nadu Public Service Commission. The inter se seniority position will not be affected in any way with reference to the dates of regularisation mentioned in column 3 of the annexure.”

Interpreting the above-quoted paragraph in the appointment order this Court in Paripoornam case¹ denied seniority to the respondents from a date earlier to the date of regularisation. This Court in the said case observed as under: (SCC p. 425, para 13)

“In the first place the order of regularisation of the services of the candidates expressly states that the inter se seniority of the candidates would be in accordance with the rankings in the approved list prepared by the Public Service Commission and will not be affected in any way by the date of regularisation of services. When the order of regularisation of temporary service itself denies such service for the purpose of determining seniority, the Court cannot count that service for the purpose of seniority.”

4. It is thus obvious that in Paripoornam case¹ the order of regularisation itself denied the benefit towards the seniority of the period of service rendered prior to the date of regularisation. There is no such condition in the order of regularisation of the appellants in the present case. Mr Chidambaram, however, contends that since the seniority was initially fixed by the department ignoring the temporary period, the condition should be impliedly read in the appointment order. We do not agree with Mr Chidambaram. In the absence of any specific order denying seniority to the appellant from the date of their initial appointment - from which date they were regularised - they are entitled to count the whole of the period of service for the purpose of seniority.

5. We, therefore, see no ground to interfere with our order under review. The review petition is dismissed. No costs.

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