



K. MEGHACHANDRA SINGH & ORS. VS NINGAM SIRO & ORS: A HISTORIC DECISION IN SERVICE JURISPRUDENCE

Tharmani Sai Charan*

INTRODUCTION

In the Indian context, public/Government employment is considered to be the cherry on the top. Because it is perceived that the service will guarantee the security of tenure, regular promotions, special allowances and revision of payment scale from time to time. But if we examine the other side of the coin, it's the two-sided sword that when things like promotion of either rank or pay, the seniority of the employee comes into the picture. In the case of *K. Meghachandra Singh & Ors vs. Ningam Siro & Ors*¹, the Hon'ble Apex court paved the way to determine the inter-se seniority of employees who are recruited to the **Madhya Pradesh Police Department of Grade-II Cadre**. The said case has disapproved the principle laid in the *Union of India & Ors vs. N. R Parmar & Ors*², it was held that the seniority be calculated from the date of notification of the recruitment.

The Hon'ble Apex court has given much importance to the issues that are raised in the said cases and came up with a groundbreaking outcome that entirely changed the service litigation. The issues such as determination of seniority for promotion, how to term "year" to be perceived in the service rules³, considerations for administrative delay in promotion/granting seniority, retrospective effect of the judgements or Office Memos or Service Rules, relevance of service rules in various departments of the same state and the rights conferred to a candidate shortlisted or selected and an incumbent recruited against any vacancy in the state.

*BA LLB, FIRST YEAR, POST GRADUATE COLLEGE OF LAW, OSMANIA UNIVERSITY, HYDERABAD.

¹ (2020) 5 SCC 689.

² (2012) 13 SCC 340.

³ Madhya Pradesh Service Rules, 1965.

Issue-01: Will the seniority be determined through the date of appointment or the notification for recruitment?

The court clarified that the date of receipt of the appointment order from the concerned department or the competent authority is considered for the determination of seniority for the said posts, but not the date of notification for the recruitment, since the person is neither born into the service nor received the encodement. In the aforementioned case, the candidates were recruited in the same year, but I'm in different months in 2007. Unlike the former, the N.R. Parmar Case of 2012, where the date of notification for recruitment was considered to calculate the seniority.

Issue-02: How can the term "year" be interpreted in the context of Madhya Pradesh Service Rules, 1965?

In response to the contradiction arising with the term "year", the court said that the term 'year' should be referred to as the financial year, not the calendar year, since both are different things used in different contexts. Generally, we use the calendar year to describe the chronological order of the events, but in services, the financial year is considered to be more appropriate.

Issue-03: Should the administrative delay be considered for the delay in promotions or calculation of seniority?

The court clarified that due to some uncertain events, the administrative delay was caused, but that delay shall not be an excuse for the process of calculating the seniority or granting promotion. Because even in events like contempt of court or any of such cases, the administrative delay can be considered to a certain extent if it is found to be reasonable. The non-compliance with the court's order or direction will amount to contempt of court, but it may be vacated if the counter clarifies it.

Issue-04: Should seniority be reckoned retrospectively?

The court found this issue to be an issue of higher care and caution. Because the retrospective seniority will violate the **Article 14**⁴ and **Article 16**⁵ of the **Indian Constitution**⁶. But if the

⁴ Article 14: Right to Equality before law.

⁵ Article 16: Right to Equality of opportunity in the matters of public employment.

⁶ Constitution of India, 1949.

service rules or the Office Memorandums of the concerned department explicitly mention that the seniority be reckoned as retrospective, then the employee will be entitled to seniority.

Issue-05: To what extent are the service rules applicable or relevant for different departments in the same State? Though the State has framed the service rules for a common purpose to apply to different departments, the applicability of the said rules is at the discretion of the department or the concerned department may amend or issue their Office Memos to make changes or to bring about new rules exclusively for their own department. The court mentioned that the Income Department and Police Department should comply with the same service rules, as the modus operandi is not the same for both.

Issue-06: Does the selection or shortlisting confer any rights to the candidate?

It is being said that the mere selection or the shortlisting of the candidate through any competitive exam for employment does not confer him/her any right to exercise until the person has received encodement or been inducted into the service. This is to be treated as a matter of importance since the receipt of the appointment order is considered to be the day to enter the service and may be entitled to the rights which will be conferred thereupon.

CONCLUSION

It is observed in the aforementioned case that Service Jurisprudence is not merely the compliance with Service Rules but the principles laid down in the Constitution and natural justice. The seniority is calculated from the date of appointment into the service. Because, if the person is not entitled for any right if he/she is not received the encodement, then the same applies to the matter of seniority Though the departments have their own mechanism such as DPCs (Departmental Promotion Committees) and roaster for rotation of posts or vacancies, the issues were still under the judicial consideration not only of the non-compliance or timely disposal but also the administrative delay that makes the issue even worse. This case has solved various long-pending matters with the subject of seniority or promotion in public employment.