

B.R. RAMABHADRIAH

v.

SECRETARY, FOOD & AGRICULTURE DEPARTMENT
ANDHRA PRADESH & ORS.

July 30, 1981

[E.S. VENKATARAMIAH AND V. BALAKRISHNA ERADI, JJ.]

Constitution India 1950, Art. 226—Relief under—Court whether competent to take note of changed circumstances and grant smaller relief than claimed in writ petition.

The appellant, an officer of the Forest Department challenged the provisional integrated gradation list of Forest Officers of the former Andhra and Hyderabad States published under the provisions of the States Reorganisation Act, 1947, in his writ petition, contending that (a) the inter-se seniority between the appellant and the 6th respondent, both of whom originally belonged to the Andhra Cadre, had been wrongly fixed by showing the 6th respondent as senior to the appellant whereas the appellant was legally entitled to seniority over the 6th respondent, and (b) that respondent nos. 3, 4, 5, 7 and 8 officers allotted to the State of Andhra Pradesh from the Telengana region of the former Hyderabad State, had been erroneously assigned ranks above the appellant in violation of the principles laid down by the Government of India for equation of posts and fixation of inter-se seniority.

During the pendency of the writ petition the Central Government set right the appellant's grievance concerning his ranking and seniority in relation to respondents 3, 4, 5, 7 and 8. When the writ petition came up for hearing the appellant pressed only his claim for seniority over the 6th respondent and as the contention was well founded, the learned Single Judge, allowed the writ petition and issued a writ of mandamus directing the Government of India to modify the gradation list by showing the appellant as senior to the 6th respondent.

In the appeal to the Division Bench by the 6th respondent, the Division Bench took the view that since the prayer contained in the writ the petition was for the issue of a writ of mandamus directing respondents nos. 1 and 2 to forbear from implementing the provisional gradation list published alongwith the Government Order dated January 27, 1962 and as the appellant had not pressed the prayer for quashing of the list in so far as it related to the officers of Telengana region viz. respondents 3, 4, 5, 7 and 8, the writ petition should have been dismissed on that short ground and the question relating to the inter-se seniority between the appellant and the 6th respondent ought not to have been decided. The Division Bench allowed the writ appeal, set aside the order passed by the single Judge and dismissed the writ petition.

Allowing the appeal to this Court,

A HELD : In an action where a party has prayed for a larger relief it is always open to the Court to grant him any smaller relief that he may be found to be entitled to in law and thereby render substantial justice. The Court can take note of changed circumstances and suitably mould the relief to be granted to the party concerned in order to mete out justice. As far as possible the anxiety and endeavour of the Court should be to remedy an injustice when it is brought to its notice rather than deny relief to an aggrieved party on purely technical and narrow procedural grounds. [162 G-163 A]

B

In the instant case the writ petition contained the prayer for the quashing of the gradation list in so far as it related to the inter-se ranking of the appellant vis-a-vis respondents nos. 3 to 8 and the appellant had also sought the issuance of a writ of mandamus directing respondents nos. 1 and 2 to forbear from implementing or acting upon the said gradation list. Subsequent to the institution of the writ petition the Central Government had refixed the ranks of respondents nos. 3, 4, 5, 7 and 8 and placed them below the appellant thereby redressing the grievance of the appellant in so far as it pertained to the ranking of the said respondents. It, therefore, became unnecessary for the appellant to pursue his claim for relief with respect to the ranks assigned to those five respondents. It was under those circumstances that the appellant submitted before the single Judge at the time of final hearing of the writ petition that he was pressing the writ petition only in so far as it related to his claim for seniority over the 6th respondent. This will not operate to preclude him from seeking a lesser relief namely the quashing of the list only in so far as it pertains to the fixation of the inter-se seniority between himself and the 6th respondent. [162 B-F]

C

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2050 of 1973.

E Appeal by special leave from the judgment and order dated the 14th October, 1971 of the Andhra Pradesh High Court in Writ Appeal No. 691 of 1970.

B. Parthasarathi for the Appellant.

F *P.N. Poddar* for Respondent No. 2.

S. Markandeya for Respondent No. 6.

The Judgment of the Court was delivered by

G BALAKRISHNA ERADI, J. This appeal preferred by special leave is against the judgment of the Division Bench of the Andhra Pradesh High Court setting aside the decision of a learned single judge of that Court and dismissing a writ petition filed by the present appellant.

H The appellant, who was working as an officer of the Forest Department in the State of Andhra Pradesh, approached the High

Court challenging the provisional integrated gradation list of Forest Officers of the former Andhra and Hyderabad States published under the provisions of the States Reorganisation Act, as annexure to a State Government Order dated January 27, 1962. The contentions raised by the petitioner in the writ petition were mainly two-fold. Firstly, it was urged that the inter-se seniority between the appellant and the 6th respondent, both of whom originally belonged to the Andhra Cadre, had been wrongly fixed in the provisional gradation list by showing the 6th respondent as senior to the appellant, whereas the appellant was legally entitled to seniority over the 6th respondent. Secondly, it was contended that respondents Nos. 3, 4, 5, 7 and 8 who were officers allotted to the State of Andhra Pradesh from the Telengana region of the former Hyderabad State, had been erroneously assigned ranks above the appellant in the integrated gradation list in violation of the principles laid down by the Government of India for equation of posts and the fixation of inter-se seniority between the persons drawn from the two sources.

By the time the writ petition came up for hearing before the learned single judge, the Central Government had already set right the appellant's grievance concerning his ranking and the seniority in relation to respondents 3, 4, 5, 7 and 8. It therefore became unnecessary for him to pursue the second contention aforementioned and hence he pressed before the learned single judge only the plea concerning his claim for seniority over the 6th respondent. The learned single judge found that the contention put forward by the appellant that he was entitled to seniority over the 6th respondent was well founded. Accordingly, the learned judge allowed the writ petition and issued a writ of mandamus directing the State Government and the Government of India to modify the gradation list by showing the appellant as senior to the 6th respondent.

The 6th respondent carried the matter in appeal before a Division Bench of the High Court by filing Appeal No. 691 of 1978. The Division Bench took the view that since the prayer contained in the writ petition was for the issue of a writ of mandamus directing respondents No. 1 and 2 to forbear from implementing the provisional gradation list published along with the Government Order dated January 27, 1962, and inasmuch as the petitioner had not pressed the said prayer for quashing of the list in so far as it related to the officers of Telengana region (respondents 3, 4, 5, 7 and 8), the writ petition should have been dismissed on that short ground and the question relating to inter-se seniority between the petitioner and the

A 6th respondent ought not to have been decided by the learned single judge. In this view, the Division Bench allowed the writ appeal, set aside the order passed by the learned single judge and dismissed the writ petition. The appellant has come up to this Court questioning the legality and correctness of the aforesaid reasoning and conclusion of the Division Bench.

B

C It is true that the writ petition contained a prayer for the quashing of the gradation list in so far as it related to the inter-se ranking of the petitioner vis-a-vis respondents Nos. 3 to 8 and the petitioner (appellant) had also sought the issuance of a writ of mandamus directing respondents Nos. 1 and 2 to forbear from implementing or acting upon the said gradation list. But subsequent to the institution of the writ petition, the Central Government has refixed the ranks of respondents Nos. 3, 4, 5, 7 and 8 (Telengana Officers) and placed them below the appellant thereby redressing the grievance of the appellant in so far as it pertained to the ranking of the aforesaid respondents. It therefore became unnecessary for the appellant to pursue his claim for relief with respect to the ranks assigned to those five respondents. It was under those circumstances that the appellant submitted before the learned single judge of the High Court, at the time of final hearing of the writ petition, that he was pressing the writ petition only in so far as it related to his claim for seniority over the 6th respondent. We fail to see how the fact that the appellant had sought in the writ petition the issuance of a writ of mandamus directing respondents 1 and 2 to forbear from implementing or acting upon the provisional gradation list will operate to preclude him from seeking a lesser relief, namely, the quashing of the list only so far as it pertains to the fixation of the inter-se seniority between himself and the 6th respondent. The material facts and circumstances had undergone a substantial change subsequent to the filing of the original petition and it was in consequence thereof that it had become unnecessary for the petitioner to pursue his original prayer for the grant of a larger relief. Besides ignoring this crucial aspect, the Division Bench of the High Court has also lost sight of the well established principle that in an action where a party has prayed for a larger relief it is always open to the court to grant him any smaller relief that he may be found to be entitled in law and thereby render substantial justice. The Court can undoubtedly take note of changed circumstances and suitably mould the relief to be granted to the party concerned in order to mete out justice in the case. As far as possible the anxiety and endeavour of the Court should be to remedy an injustice when it is

D

E

F

G

H

brought to its notice rather than deny relief to an aggrieved party on purely technical and narrow procedural grounds. We do not, therefore, find it possible to uphold the view expressed by the Division Bench of the High Court that since the writ petition was not pressed in so far as it related to the officers belonging to the Telengana region the question of inter-se seniority between the writ petitioner and the 6th respondent should not have been considered by the single judge and the writ petition should have been dismissed.

Accordingly, we set aside the judgment of the Division Bench and remand the writ appeal to the High Court for fresh disposal in accordance with law. The parties will bear their respective costs in this appeal.

N.V.K.

Appeal allowed