

PETITIONER:
SHRI M.V. SRINIVASA & ORS.

Vs.

RESPONDENT:
STATES OF ANDHRA PRADESH & ORS.

DATE OF JUDGMENT: 23/07/1997

BENCH:
SUJATA V. MANOHAR, G. B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

G.B. PATTANAIK, J

In these appeals as well as the Writ Petition a common question regarding entitlement of the employees serving under a project but not will the project area to get project allowance as well as the amenities like rent free quarter, free electricity and free water supply arise for consideration and as such as they were heard together and are being disposed of by this common judgment. The appeals in question are directed against the order of the Karnataka Administrative tribunal. Admittedly the appellants are servicing in the state of Karnataka and have been employed in different projects but they are posted not within the project area and employed in different projects but they are posted not within the project area and on the other hand are posted either in Taluk Headquarters and elsewhere. The Government of Karnataka by order dated 27.9.1960 sanctioned project allowance at 20% of the pay subject to a maximum of Rs. 75% per mensem to the officers and staff working under the project and are stationed at the work spot. It was also indicated therein that they will be entitled to free quarters, free electricity and free water supply as allowed in other similar projects executed in the state. It was further stated in the aforesaid Government order that:-

"This is subject to revision when decisions are taken on the recommendations of the Rationalisation committee"

By a subsequent letter dated 18. 12.1968 from the Secretary to the Government PW and Electricity Department, Bangalore addressed to the Rao Hidkal Dam, Belgaum district it was clarified that the amenities like rent free quarter, free electricity and free water supply sanctioned to the project staff of Malaprabha project in Government order Dated 27th September, 1960, are irrespective of the headquarters of the offices and while the project in Government order dated 27th September, 1960, are irrespective of the headquarters of the offices and the offices and while the project allowance sanctioned to them is admissible only when the project staff

is stationed either at the project site or away from cities and taluk headquarters, the other amenities will be available even to the employees serving under the project and stationed beyond the project area and posted at the Taluk headquarters or any other place. These amenities which had been granted to the employees serving under the project under Government letter dated 18.12.1968, were withdrawn by Government letter dated 20.8.1987 giving it retrospective effect with effect from 19.12.1985. The aforesaid Government letter dated 20th August, 1987 is extracted hereinbelow in extenso:-

"From

The Secretary to the Government of
Mysore, P.W. & Elec. Dept.,
Bangalore

The Rao Hidkal Dam.

Belgaum District

sub: Provision of free
Electricity to the
officials of the
Malaprabha project.

.....
With reference to your letter No. RAO. CP. R 140 dated 3rd/8th July 1968 on the subject mentioned above, I am directed to state that the amenities like rent free quarters, free electricity, free water supply etc., sanctioned to the project staff of the Malaprabha project in Government Order No. PWD 7, MMP 60 DATED 24th/ 27th Sept. 1960 are irrespective of the headquarters of the offices. While the project allowance sanctioned to them is admissible only when the project staff is stationed either at the project site or away from cities and taluk headquarters, these amenities are sanctioned to the staff, in view of the fact that though the head quarters of the circle office and sub-division offices are at Saundatti and other Taluk places, these places are devoid of rest of the amenities. As the project allowance is in no way conditioned by non-provision of project amenities like housing, electricity etc. the project staff of the Malaprabha project circle residing at Saundatti and other taluk headquarters places should therefore be held eligible for the amenities sanctioned by Government.

The letter issued with the concurrence of Finance Department vide their U.O Note FD 6304-69 (W & H)

1. Dated 26th November 1968

yours faithfully,

sd/-

U/S TO Government

PWE Deptt."

The appellants challenged the aforesaid order of the

Government before Karnataka Administrative Tribunal. The tribunal by the impugned judgement having dismissed the applications the present appeals have been preferred. The Writ petition in question has also been filed by the employees working under the project challenging the withdrawal of the project amenities by Government Order dated 20th August, 1987 giving it retrospective effect with effect from 19.12.1985. It is an admitted fact that these employees though are employed in the project but are stationed in Taluk headquarters and elsewhere and not within the project area.

The learned counsel for the appellants raised three contentions in assailing the order of the state Government dated 20th August, 1987. It was urged that the employees having been engaged in the project itself there is no justification to make a distinction between those stationed in the project area and others who are stationed in Taluk headquarters and elsewhere in the matter of grant of amenities like rent free quarters, free electricity and free water supply. The learned counsel further contended that the sanction having been made by order of the Government duly authenticated in terms of power exercised under Article 166 of the Constitution, the same cannot be withdrawn merely by a government letter and, therefore, the impugned order dated 20th August, 1987, has no value and no force in the eye of law. The learned counsel for the appellant lastly urged that in any view of the matter discontinuance of the amenities with retrospective effect is on the face of it not sustainable and the amenities having been given pursuant to a Government order the same cannot be withdrawn with effect from any retrospective date. The learned counsel for the State on the other hand contended, that the employees serving within the project area form a class by themselves and the special allowance and amenities which the Government sanctions to them cannot be claimed by others who are stationed outside the project and work in the Taluk headquarters and elsewhere. Such action of the Government cannot be said to be discriminatory in nature. He further contended that the initial order allowing amenities to the employees who were stationed outside the project area was also be a government letter and the same has been withdrawn by another Government letter dated 20th August, 1987. Consequently there is no infirmity in the same. So far as the question of withdrawal of the amenities with retrospective date the learned counsel urged that the retrospectivity of the Government Order dated 20th August, 1987, has already been withdrawn by the subsequent Government order and the order, therefore, become effective from the date of issuance of the Government Order and the order, therefore, become effective from the date of issuance of the Government Order dated 20th August, 1987 and the appellants cannot have any grievance on that score.

Having examined the rival contentions and having considered the different letters of the Government from time to time we find much force in the contentions raised on behalf of the State and we do not find any force in the submissions made by the learned counsel for the appellants. In view of the admitted fact that the appellants though are engaged in the project but have been stationed not within the project area and are stationed in Taluk headquarters and elsewhere the question for consideration is whether they can be said to have been treated discriminately when project amenities are being given only to those who are stationed within the project area. The answer must be in the negative. The power to grant any special allowance and amenities to

those employees who serve the government and are posted in places with an unfavourable condition is within the discretion of the Government. considering the nature of duties discharged by those who have been posted within a project area as well as no availability of several basic amenities of life, the Government would be well within its power to grant some incentives like project allowance and other amenities like free quarters, free electricity and free water supply. But such incentives and amenities cannot be claimed as of right by all the employees who might have been employed in the project but are stationed outside the project area and are serving in taluk Headquarters or elsewhere. it is the place of work which entitles a group of employees to get incentives and amenities in question and not the employment in the project itself. In that view of the matter we are unable to find and substance in the arguments advanced by learned counsel appearing for the appellants that they are being discriminately treated. In the facts and circumstances we do not find any discrimination in the matter of grant of project allowance and amenities to those of the employees who are posted in the project site itself. The first contention of the learned counsel for the appellants, therefore, must be rejected.

So far as the contention regarding validity of the impugned letter dated 20th August, 1987, not being a letter in terms of Article 166 of the Constitution, we find that the Tribunal itself examined this question with reference to the original file where a decision was taken and Tribunal came to the conclusion that the relevant Government files disclose that the decision relating to withdrawal of the amenities was taken by the concerned Minister of the Department who was empowered under the rules of business to pass such order. In that view of the matter there is no substance in the contention raised by the learned counsel for the appellants. That apart the letter under which the amenities were granted to the employees serving beyond project area, dated 18.12.1968 itself was also a letter addressed by the Under secretary to the Government in the same manner as the impugned letter withdrawing the amenities dated 20th August, 1987. We, therefore, do not find any infirmity in the aforesaid government letter dated 20th August, 1987 and in view of the aforesaid letter of the state Government the project amenities cannot be granted to those employees residing in Taluk headquarters and elsewhere from the date of the issuance of the letter. So far as the retrospectivity of the withdrawal is concerned it appears that on 20th January, 1988, the Government in the PWD, CADA and Electricity Department has issued a letter to all the Chief Engineers intimating therein that the Government letter dated 20th August, 1987, would be implemented only with effect from the date of the issuance of the letter and not with effect from any retrospective date. IN view of the aforesaid subsequent letter of the Government dated 20th January 1988, the amenities in question have been withdrawn only from 20th August, 1987 and not with effect from 19.12.1985 which was indicated earlier in the letter dated 20th August, 1987. The grievance on the question of retrospectivity, therefore,, no longer survives.

In the aforesaid premises we do not find any merits in these appeals and the Writ petition which are accordingly dismissed. But in the circumstance there will be no order as to the costs.