

CASE NO.:
Appeal (civil) 1079 of 2001

PETITIONER:
State of Orissa & Ors.

RESPONDENT:
All Orissa Forestry Ext. Officers Assoc. & Ors.

DATE OF JUDGMENT: 12/10/2004

BENCH:
Ruma Pal & Arun Kumar

JUDGMENT:
J U D G M E N T

ARUN KUMAR, J.

The forest service in the State of Orissa was constituted under the Indian Forest Act, 1927 and the Madras Forest Act, 1882. However, in 1972 the State had its own Forest Act. The primary object of the legislation was protection and management of forests in the State. The words 'forest officer' have been defined under the Act to mean persons whom the State Government, or any officer empowered by it in this behalf, may appoint to carry out all or any of the purposes of the Act. A forest officer would include the Principal Chief Conservator of Forest as well as subordinates like Conservator of Forests, Forest Range Officers, Deputy Rangers and Foresters. In the year 1979 the State of Orissa adopted the Antyodaya Programme of the Central Government. Under the said programme Social Forestry Projects were undertaken which envisaged contact with the poorest of poor farmers to educate and train them in matters connected with farming. For purpose of the Social Forestry Projects, ex cadre posts of Forestry Extension Officers (for short 'FEOs') were created by the State Government. These were project related posts and their expenses were met from special funds raised for the project. The project was for specific purpose and for a specific period and was funded by the Central Government. The duration of the project was, however, extended from time to time in order to fulfil its objective.

The recruitment for the posts of FEOs was to be made from the open market. The officers were to be given training in raising of seedlings, nursery work etc. so that when they go to the field they could properly motivate and educate the farmers. The minimum qualification prescribed for FEOs was Intermediate with Botany as a subject. After recruitment these officers were to be posted in blocks wherein forestry extension work was undertaken. Certain blocks within the State were selected for such extension work as a part of the Forestry Extension Programme. The FEOs were envisaged as somebody remaining in touch with small farmers at the lowest level in each village block and assessing their requirements of forest species and other species. The respondents were recruited as Forestry Extension Officers under the Project from 1979 onwards. The respondents claim that they should be treated as part of the forest service under the Forest Department of the State Government and the posts held by them should have equal pay and equal status with the equal level posts in the Forest Department. They further claim that the posts held by them should be included in the channel of promotion to higher posts in the forest Department. The grievance of the

respondents is that they have been stagnating in the posts of FEOs to which they were recruited nearly twenty years ago. According to them though the project has senior level posts of Social Forestry Supervisors but these posts are being filled by getting officers from forest service of the State Government on deputation, thereby the posts are being denied to them. In the matter of pay scales the grievance of the FEOs is that they are being equated with foresters who are neither as qualified as they are nor the foresters discharge such important functions as they are discharging. The minimum educational qualification prescribed for the post of forester in the quota meant for direct recruits at the relevant time was Matriculation only. The FEOs are trained to motivate people under Social Forestry Projects which requires contact with individual farmers and working at the grass root level. On the other hand, officers of the Forest Department of the State are mainly concerned with protecting forests, including forest property, preventing illegal felling of trees, keeping a check on forest contractors in order to ensure that forest produce is not illegally exploited and removed, prevention of poaching of forest animals etc..

In the year 1990, some of the Forest Extension Officers (FEOs) approached the Orissa Administrative Tribunal for purposes of relief with regard to the above demands. In fact, before approaching the Tribunal they had made representation to the Government which did not yield any result. This Original Application was disposed of by the Orissa Administrative Tribunal vide order dated 7.9.1995. The Tribunal noted that the government was alive to the grievance being aired by the FEOs. It directed the State Government to decide the question of fixation of pay scales of FEOs within six months. The Association of the FEOs was allowed an opportunity to be heard by the officers of the State Government who would be taking such a decision on behalf of the government. The Tribunal further observed that when the question of pay scales would be considered, the question of promotional avenues should also be taken into consideration. It appears that nothing happened in pursuance of the said direction of the Tribunal. The Association of FEOs again approached the Tribunal by way of an application in the year 1996. The main grievance of the Association was that inspite of the FEOs being well qualified, they were being made to stagnate as there were no chances of promotion to higher posts available for them. The other grievance was about not getting appropriate scale of pay. The respondents claim that they should be treated as equivalent to Forest Rangers and the scale of pay and service benefits given to Forest Rangers should be available to them also.

The Tribunal noted that the nature of duties performed by FEOs and the Foresters could not be compared because the two were entirely different. Similarly, the method of recruitment and the basic qualifications required for eligibility to the two posts were different. However, the grievance of the FEOs could not be overlooked. Undoubtedly, the FEOs were not getting any chances of promotion nor they were getting the pay scales commensurate to the duties and functions being performed by them. Having regard to these aspects the Tribunal directed that those FEOs who have put in more than ten years of service as FEOs should be treated at par with the post of Deputy Ranger in the state forest service and placed in the same scale of pay which is now applicable to Deputy Rangers. They should also be made eligible for promotion to the posts of Forest Rangers. Those FEOs who have put in less than ten years of service may be treated at par with Foresters and be made eligible for promotion as Deputy Rangers. The Tribunal noted that it was stated in the counter affidavit filed on behalf of the Government in the proceedings before the Tribunal that steps were being taken for movement of the FEOs to other divisions so as to induct them into the mainstream. The Tribunal expected that this

movement should start which would result in FEOs with more than ten years of service being posted as Deputy Rangers when they are moved from Social Forestry Section and others should be posted as Foresters. In view of the averments in the counter affidavit the Tribunal recommended to the State Government that the exercise in terms of the above directions should start without further delay so as to equip the FEOs for their induction into the mainstream whenever the Social Forestry Welfare Scheme is abolished. The order of the Tribunal also contained a direction that in future vacancies for Forest Rangers and Deputy Rangers quotas should be earmarked for FEOs with more than ten years of service and FEOs with less than ten years of service respectively. The Tribunal directed the State Government to complete the exercise within four weeks.

The State Government issued an order on 19th May, 1998 carrying out the directions contained in the aforesaid judgment of the Orissa Administrative Tribunal. Those Forest Extension Officers who had put in more than ten years of service were to be treated at par with Deputy Rangers and placed in the same pay scale i.e. 1200-30-1560-EB-40-2040. Since out of 105 Forestry Extension Officers, 100 had already completed more than ten years of service as FEOs they were to be declared Senior Grade Forestry Extension Officers and were to be made eligible for promotion to the post of Forest Ranger. Those FEOs who had rendered less than ten years of service were to be treated at par with Foresters. The order contained further details about how the various quotas were to be worked out and postings were to be made.

One of the Foresters, under an apprehension that FEOs belonging to the Social Forestry Projects were being merged with the mainstream forest service of the State, approached the State Administrative Tribunal in the year 1998 seeking a declaration that Forestry Extension Officer do not belong to the cadre of the state forest service and that they should not be promoted to the posts of Deputy Rangers. The case of the applicant before the Tribunal was that the Social Forestry Project was a project scheme and the FEOs appointed under that scheme held ex-cadre posts. They were appointed to execute the Project and, therefore, they had nothing to do with regular forest service under the State Government. Since they were holding ex-cadre posts they could not claim promotion to the posts under the cadre. The Tribunal in its order dated 27th January, 1999 found that the apprehension of the petitioner before it was totally misplaced. The Forestry Extension Officers

were being given only the pay scales of the equivalent posts in the State Government. Giving equivalent pay scales did not mean that they were being merged with the forest service of the State Government. Similarly regarding their promotions to the posts of Senior Social Forestry Extension Officer, their identity was being kept separate. The equivalence was provided only qua the scales of pay. The Tribunal noted:

"6. There is nothing in the letter of 19th May, 1998 to show that at any point of time the posts of Social Forestry Extension Officers or Senior Grade Social Forestry Extension Officers on one side and the Deputy Rangers and Foresters on the other have been made interchangeable posts. In order to give incentive to the Extension Officers only a separate channel of promotion has been created for them. Neither an Extension Officer can claim a post of Deputy Ranger nor a Forester can claim the post of Senior Grade Forestry Extension Officer."

The Tribunal further observed:

"7. However, in sub-para (i) of paragraph 1 of the said letter there is an observation that the forestry Extension Officer with more than 10 years of service should be posted as Deputy Ranger when it is proposed to move them out of the Social Forestry Directorate and others having less than ten years of service may be posted as Foresters. We are of the view that since the government do not intend to make the posts interchangeable, this observation cannot be accepted as reasonable. Until the Extension Officers and Senior Extension Officers are regularly absorbed in the cadre of Foresters and Deputy Rangers and Rangers, they cannot be allowed to hold the posts of Ranger/Deputy Ranger or Forester. We, therefore, advise the State Government to frame a scheme or rules for their absorption in the Forest Department in the event of the abolition of the Directorate of Social Forestry. Until then, the Extension Officers shall not be brought over to the cadre of Foresters and Deputy Rangers. In case the Government desire that the Senior Grade Forest Extension Officer should also have further promotional facility, it is open to the State Government to consider and create appropriate promotional posts for them."

The above order was passed on 27th January, 1999. The State Government filed a Special Leave Petition in this Court challenging the earlier order of the Tribunal dated 5th March, 1997 in the first week of November, 2000 without even making a reference to the subsequent order dated 27th January, 1999. Thus the order dated 27th January, 1999 has not been challenged by any party. Leave to appeal was granted in the Special Leave Petition and the matter was registered as Civil Appeal No.1079 of 2001 which is being disposed of by this order. During the pendency of this Civil Appeal the Government of Orissa passed a resolution dated 8th August, 2003 re-organising the field establishments of the Forest and Environment Department under the 'Forestry and Wildlife' wing by abolishing the Afforestation and Social Forestry Division and Circles and creating a number of Territorial and Wildlife Divisions and Circles. Further the resolution abolishes certain establishments including the Social Forestry Department. The staff of the Departments which were being abolished was deployed within the remaining establishments. The said resolution provides that the Government had decided to abolish eighteen establishments under the control of Director, Social Forestry Project with which we are concerned in the present case. With the abolition of eighteen establishments of Social Forestry Project, the staff of the establishments is to be deployed in the Divisions/Circles/State Forest Headquarters as per the plan given in the resolution. The resolution came into effect on the date it was issued i.e. 8th August, 2003 and provides that the reorganization exercise was to be completed by 30th September, 2003. The exercise had started and in pursuance thereof a Memo dated 24.10.2003 was issued. None of the parties appearing before us have disputed the said resolution. In fact, an affidavit was filed in the present proceedings on behalf of the respondent Association bringing the said resolution on record. The respondents further stated that in view of the resolution dated 8th August, 2003 the points sought to be raised by the Government in the present appeal were no longer available to it. By the said resolution the members of the respondent-association i.e. Forest Extension Officers (FEOs)

who were working under the Social Forestry Projects had been taken into the mainstream i.e. into the Forest Department of the Government of Orissa called the Territorial and Wildlife Division. The Social Forestry Directorate stands abolished. It is a resolution of the State Government. Naturally the learned counsel for the appellant, i.e. the State of Orissa accepts the resolution. In view of these developments the FEOs have ceased to be officers working against a particular project. They have become part of the forest service of the State Government. Their grievances do not survive any more. We have also heard the learned counsel appearing for some of the forest service officers who had intervened in these proceedings. He has tried to canvas that the position of his clients should not be adversely affected due to the merger. As at present he could not spell out any cause for worry for his clients. In any case, in the event of any prejudice being caused to the interveners, they will have independent cause of action for which they are free to pursue their remedies. So far as the State Government is concerned, it is bound by its resolution and, in fact, has taken steps to implement the same. Nothing survives in this appeal. The same is accordingly dismissed as having become infructuous. No costs.