

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS.7360-7361 OF 2002

P. Satyanarayana Rao & Anr.

...Appellant(s)

Versus

S.V.P. Sarvani & Ors.

...Respondent(s)

WITH CIVIL APPEALS NOS.7359/2002 & 2548-2549/2004

ORDER

In Civil Appeal Nos.7360-7361/2002:

Heard counsel for the parties and perused the record.

The dispute in this case is about the inter-se seniority between the parties.

It may be noted that the post of Junior Assistant in the subordinate office in the Commercial Taxes Department is a Category-11 post under the A.P. Ministerial Service Rules and the minimum qualification for appointment on the said post is Intermediate. On the other hand, the post of Junior Assistant in the office of the Head of the Department is a Category-10 post and the minimum qualification there is Graduation.

Rule 27(1)(iii) of the aforesaid Rules states:

“The seniority of a member of the service who is transferred at his own request from one Department or office to another shall be fixed in the latter department or office with reference to the date of his first appointment in the latter department or office...”

...2/-

Learned counsel for the appellant submitted that the appellant was transferred from the subordinate office to the office of Head of the Department not at his request but on his making an application. We regret we cannot see any difference. When a person makes an application for transfer, it is obviously a transfer at his own request. Hence, in our opinion, Rule 27(1)(iii) squarely applies. In this case, the appellant got transferred from the subordinate office to the office of the Head of Department at his own request. If he did not wish to forego his service in the subordinate service, he need not have made any such request and would have remained in the subordinate office. Once he makes a request for transfer to the office of the Head of Department, then, he must undergo the consequences of such transfer and he cannot claim that his service in the subordinate office must be added to his service in the office of the Head of Department for the purpose of seniority. He will be deemed to have been given a fresh appointment on his joining in the office of the Head of Department for the purposes of seniority, in view of Rule 27(1)(iii) of the Rules. Thus, in our opinion, there is no error in the impugned judgment of the High Court.

Civil Appeals are, accordingly, dismissed, with no order as to costs.

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In Civil Appeals Nos.7359/2002 & 2548-2549/2004:

Heard learned counsel for the parties.

For the reasons given in our judgment in C.A.Nos.7360-7361/2002, these Civil Appeals are allowed and the impugned judgments of the Tribunal and the High Court are set aside.

No order as to costs.

.....J.
(MARKANDEY KATJU)

.....J.
(AFTAB ALAM)

**New Delhi,
December 02, 2008.**