

SH. M.V. SRINIVASA AND ORS. ETC.

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v.

STATE OF KARNATAKA AND ORS.

JULY 23, 1997

[SUJATA V. MANOHAR AND G.B. PATTANAİK, JJ.]

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Service Law : Project Amenities—Grant of—Originally granted to all project employees regardless of their place of work—Later on withdrawn to those stationed not within project area, but in Taluk headquarters and elsewhere—Whether appellants treated discriminately—Held : No discrimination since the place of work is relevant.

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The Respondent-State Government made the officers and the staff working in the projects and stationed at the work spot entitled to amenities like free quarters, free electricity and free water supply as allowed in other similar projects executed in the State. By a subsequent letter the State Government clarified that these amenities, irrespective of the headquarters of the officers, will be available even to the employees serving under the project and are stationed beyond the project area and posted at the Taluk headquarters or any other place. These amenities were, later on, withdrawn by Government Order dated 20th August, 1987 giving it retrospective effect from 19.12.1985. The appellants challenged it before the state Administrative Tribunal. The Tribunal having dismissed their application, the present appeals were preferred.

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It was contended for the appellants that there can be no justification to make a distinction between those stationed in the project area and others stationed in Taluk headquarters and elsewhere in the matter of grant of amenities; that the original sanction having been made in terms of power exercised under Article 166 of the Constitution, the same can not be withdrawn merely by a Government letter, and therefore, the impugned order had no value and no force in the eye of law; and, that the amenities can not be withdrawn retrospectively. The Writ Petition filed in this Court also raised the same questions.

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Dismissing the appeals and the Writ Petition, this court

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A HELD : 1. 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 non-availability of several basic amenities
B 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 employees who might have been employed in the project but are stationed outside the project area and are
C serving in Taluk Headquarters or elsewhere. It is the place of work which entitles a group of employees to get incentives in question and not the employment in the project itself. In that view of the matter there is no substance found in the arguments advanced for the appellants that they were being treated discriminately. In the facts and circumstances no discrimination is found in the matter of grant of project allowance and
D amenities to those of the employees who were posted in the project site itself. [22-F-H; 23-A-B]

E 2. 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. [23-D]

F 3. There is no infirmity in the government letter dated 20th August, 1987 and in view of the same the project amenities cannot be granted to those employees residing in the 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 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 issuance of the
G letter and not with effect from any retrospective date. In view of the subsequent letter dated 20th January, 1988, the amenities in question have been withdrawn only from 20th August, 1987 and not with effect from 19th December, 1985 which was indicated earlier in the letter dated 20th August 1987. Thus the grievance on the question of
H retrospectivity, no longer survives. [23-E-H; 24-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 11560- A
11610 of 1996 Etc.

From the Judgment and Order dated 7.4.88 of the Administrative
Tribunal, Karnataka in A. Nos. 4048-4056 of 1987.

WITH B

Civil Appeal No. 11611/96 and W.P. (C) No. 405/90

Shanth Kumar V. Mahale for P. Mahale, for the Appellants.

Kh. Nabin Singh, for M. Veerappa, for the Respondents. C

The Judgment of the Court was delivered by

G.B. PATTANAİK, J. In these appeals as well as the Writ Petition a
common question regarding entitlement of the employees serving under a
project but not within 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 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. Ad-
mittedly the appellants are serving in the State of Karnataka and have been
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 sanc-
tioned 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 :- D
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"This is subject to revision when decisions are taken on the recom-
mendations of the Rationalisation Committee." G

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 H

- A 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
- B 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 :-

C "From :

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

- D The Rao Hidkal Dam,
Belgaum District.

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

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- F 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 admis-
sible only when the project staff is stationed either at the project
site or away from cities and taluk headquarters, these amenities
G 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 Saun-
datti 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
H project staff of the Malaprabha project circle residing at Saundatti

and other taluk headquarters places should therefore be held A
eligible for the amenities sanctioned by Government.

The letter issued with the concurrence of Finance Department
vide their U.O. Note No. F.D. 6304-69 (W&H) 1. Dated 26th
November 1968.

Yours faithfully,

sd/-

U/S to Government,
PWE Deptt." C

The appellants challenged the aforesaid order of the Government
before Karnataka Administrative Tribunal. The Tribunal by the impugned
judgment having dismissed the applications the present appeals have been D
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. E

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 F
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 G
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 H
having been given pursuant to a Government order the same cannot be

- A 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 from 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
- B 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 by a Government letter and the same has been withdrawn by another Government letter dated 20th August, 1987. Consequently there is
- C 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 dated 20th August, 1987 and that the appellants cannot
- D 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
- E 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
- F 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
- G non-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
- H outside the project area and are serving in Taluk Headquarters or else-

where. 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 any 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.

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

S.S.

Appeals and Writ Petition dismissed.