

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 9954-9955 OF 2018
[@ SPECIAL LEAVE PETITION (C) NO. 7378-7379 OF 2017]

ANIL KUMAR P.P.

Appellant(s)

VERSUS

THE STATE OF KERALA AND ORS.

Respondent(s)

J U D G M E N T

KURIAN, J.

1. Leave granted.

2. Heard Dr. Gopakumaran Nair, learned senior counsel appearing for the appellant, and Mr. Jaideep Gupta, learned senior counsel appearing for the State and Mr. Vipin Nair and Mr.P.B.Suresh, learned counsel appearing for the Public Service Commission.

3. The appellant is aggrieved since the High Court has virtually set aside the orders passed by the Government in exercise of their powers under Rule 39 of the Kerala State and Subordinate Services Rules, which relaxed the rigour of the General Rules and Special Rules for the purpose of promotion of the appellant from the post of Deputy Range Officer to

the post of Range Forest Officer, previously known as Range Officer.

4. We see from the records that the Government had applied its mind to the peculiar facts of the case of the appellant and the invocation of Rule 39 was in terms of equity and justice. But from the order dated 23.08.2013, we find that the Government had exempted the appellant even from the requirement of undergoing training, which is the requirement for promotion to the post of Range Forest Officer, on the sole ground that the service left was only 4^{1/2} years as on the date of the order and after undergoing the training, the appellant may not get sufficient service. We fail to appreciate the rationale behind it. If training is a requirement for appointment/promotion to a post, unless there is an appropriate satisfaction on the part of the competent authority that in view of the experience, exposure and expertise of the candidate concerned, it was not necessary for a further training, there could not have been an exemption from the mandatory requirement of training on invoking Rule 39. We do not find that there was such an enquiry in that regard and a consequent satisfaction.

5. Therefore, we set aside the order dated 23.08.2013 and remit the matter to the Government for consideration afresh, after affording an opportunity of hearing to the appellant as well. Fresh orders shall be passed by the Government within a period of six weeks.

6. We make it clear that the impugned Judgment shall not stand in the way of the Government considering the representation afresh in terms of what we have indicated hereinabove.

7. In view of the above, the appeals are disposed of.

8. We make it clear that this Judgment is passed having regard to the peculiar facts and circumstances of the case and the same is not to be treated as a precedent.

.....J.
[KURIAN JOSEPH]

.....J.
[SANJAY KISHAN KAUL]

New Delhi;
September 25, 2018.