
(1999) 1 SCC 249

Supreme Court of India

Case No: Civil Appeal No. 3377 Of 1981

M.H. Patil

APPELLANT

Vs

State of Maharashtra
and Others

RESPONDENT

Date of Decision: Feb. 11, 1998

Citation: (1999) 1 SCC 249

Hon'ble Judges: Sujata V. Manohar, J; D. P. Wadhwa, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. The appellant filed the writ petition before the High Court of Bombay challenging the preparation of seniority list dated 22nd May, 1979 of Sub-

Inspectors of Prohibition and Excise framed by the Government of Maharashtra. From 1977 onwards the seniority list was prepared on the basis

of the length of continuous officiation in the cadre concerned. The appellant, however, relied upon the rules framed for the Departmental

Examination of Persons appointed to the clerical and Non-Gazetted Executive Services of the Prohibition and Excise Department in the State of

Maharashtra and dated 3rd January, 1962.

2. Under the said Rules every person appointed to the clerical and non-gazetted executive services of the Prohibition and Excise Department was

required to take the prescribed departmental examination under the Rules unless he was exempted from taking the examination. The Rules require

that the candidate must pass the departmental examination within a period of 3 years from the date of his appointment. In case of failure to pass the

examination within the said period, he was liable to be removed from the department. No candidate would be allowed to appear again in the

examination after the expiry of 3 years without special sanction of the Government for any additional chance to appear which would be given only

in very exceptional circumstances. Under Rule 2 a candidate who failed to appear for the first examination held after completing one year of

continuous service was liable to have his increment withheld until he passed the examination or his services were dispensed with. On passing the

examination, however, the withheld increment would become payable. Rule 3 which is relied upon by the appellant is as follows :-

Seniority among the non-gazetted prohibition and Excise Officers and clerks for the purpose of confirmation shall be decided according to the

dates of their passing the departmental examination held after completion of one year's continuous service in the prohibition and excise

department.

3. The appellant contended that in view of this Rule the seniority for the purpose of promotion should be determined on the basis of the date of

passing the examination. The High Court has negated this contention relying upon the wording of Rule 3 which says that the seniority determined

on the basis of the date of passing the departmental examination is for the purpose of confirmation only and not for any other purpose. The High

Court has also pointed out the advantages which a candidate will derive by early confirmation if he passes the departmental examination earlier

than his seniors. The High Court after considering the advantages which may flow from early confirmation under Rule 3, has held that Rule 3 will

not effect the seniority on the basis of continuous officiation for the purposes of promotion provided the persons concerned have passed the

departmental examination.

4. This has also been the view taken by the department right from the year 1977 onwards although prior to 1977 the department had interpreted

the rule as contended by the appellant. The seniority lists have been prepared on the basis of continuous officiation right from 1977 onwards. We

do not see any reason to now disturb the seniority lists so prepared. We, therefore, do not see any reason for taking a view different from the view

taken by the High Court. The appeal is, therefore, dismissed. There shall be no order as to costs.