

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.2666 OF 2009

UNION OF INDIA & ORS.

... APPELLANT(S)

VS.

P.NAGESWARA RAO

... RESPONDENT(S)

J U D G M E N T

ANIL R. DAVE, J.

1. Heard the learned counsel.
2. It is a strange case where the respondent had passed an examination for being promoted to the post of Assistant Sub-Inspector (Ministerial) (for short "ASI(M)"), though he was not eligible for promotion to the said post, as per the Rules which were prevailing at the relevant point of time. In the afore-stated circumstances, after having worked as ASI(M) for 23 days, he was reverted to the post of Water Carrier, to which he belonged to.
3. Subsequently, by virtue of the amendment in the Rules, it was possible for the respondent to

get promotion to the post of ASI(M), but he did not appear at the qualifying examination as he had already passed the said examination.

4. In the litigation initiated by the respondent, the High Court held that as the respondent had already passed the said examination, it was not necessary for him to pass the examination again and therefore, he should be reinstated in the post of ASI(M) with effect from the date on which he was reverted from that post.

5. It is an admitted fact that the respondent has already been superannuated and he had worked as a ASI(M) only for a period of 23 days. In the circumstances, there is no issue with regard to reinstatement of the respondent as ASI(M). The only issue which survives now is with regard to his pension.

6. Looking at the peculiar facts, we modify the order passed by the High Court to the effect that the respondent shall be given pension as if he had retired as ASI(M). He shall not be given increased pension for the period earlier to 1st November, 2015 and for the purpose of fixation of pension it

would be presumed that he was drawing the minimum of pay scale in the cadre of ASI((M) with effect from 1st November, 2015.

7. *The appeal is disposed of as partly allowed with no order as to costs.*

New Delhi;
15th October, 2015.



.....J.
[ANIL R. DAVE]

.....J.
[ADARSH KUMAR GOEL]

JUDGMENT