

SAJJAN SINGH VS. STATE OF RAJASTHAN

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Facts Of The Case

- ❑ *It was a petition under Art. 226 of the Constitution.*
- ❑ *Sajjan Singh was appointed a Sub-Inspector of Police by the Inspector General of Jaipur Police on 10th February, 1948*
- ❑ *The same was confirmed by the Inspector General of Police of Rajasthan on September, 1951.*
- ❑ *On Certain complaints, after enquiry an order of the dismissal of the petitioner was passed on 11th August, 1953.*
- ❑ *On the ground that he was not given sufficient opportunity to explain his conduct and in any case he had been appointed by the inspector General of Police of Rajasthan, the Deputy Inspector General, Jaipur Range had no authority to pass an order of his dismissal.*
- ❑ *Appeals against dismissal were rejected twice on 26th June, 1954 and 9th January, 1956.*

Arguments from the Deputy Government Advocate

- ❑ State urged that the petitioner was confirmed as Sub-Inspector by the Deputy Inspector General of Jaipur Range, and, therefore, the order of dismissal passed by him was competent.
- ❑ He was given sufficient opportunity to explain his conduct and there was no irregularity in the proceedings taken against the petitioner.
- ❑ State was relied on the observations in the Annual Inspection Report for the year 1950 by the Deputy Inspector General Police Jaipur Range recorded some time in March, 1951.

Which States

**"the following probational Sub-Inspectors were put up before me.
They are confirmed from the dates on which their confirmation fell due.
They will be entitled to Time Scale Increment from the dates on which it fell due. "**

Learned Deputy Government Advocate

□ It was notable that:-

❖ Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1950, had been brought into force on 20th November, 1950, and the Deputy Inspector General had been conferred the power of first appointment, and the confirmation recorded in the Inspection Note should be taken to be an order of first appointment.

Arguments From The Petitioner(Sajjan Singh)

- ❑ That he had been appointed by the Inspector General of former Jaipur State as sub-Inspector in 1948.
- ❑ The order was passed by the Inspector General of Police on 2nd September, 1952, the relevant portion whereof is as follows

"as a result of Integration the following Officers are confirmed as Sub-Inspectors with effect from August 15, 1952. "

- ❑ At number 152 there is the name of the petitioner Sajjan Singh S. I.

Case Briefing

- It was argued that order relied upon by the Deputy Government Advocate, taken at its face value, is of confirmation and not of his appointment.
- The Integration of Services was under contemplation and while the Deputy Inspector Generals were authorised to select the personnel for the police force, so far as Sub-Inspectors were concerned, the certified copy of the order dated 2nd September, 1952, produced by the petitioner showed that power was exercised by the Inspector General of Police of Rajasthan.

Observations

- Aspect of the case in *Bhoop Singh vs. The State of Rajasthan* (Civil Writ Petition No. 31 of 1955, decided on 6th Sept. , 1956) were considered.
- That while the Deputy Inspector General of each Range was given the powers of appointment of Sub-Inspectors of Police on integration of services, this power was not exercised by them and they only made a recommendation to the Inspector General of Police and the Inspector General actually passed the orders of appointment of the Sub-Inspector on integration of the services in the Police Department.
- Under Article 311 of the Constitution a person cannot be removed from service by an authority subordinate to that by which he was appointed.
- The authority appointing the petitioner to the Rajasthan State Service was the Inspector General of Police of Rajasthan, who had, as aforesaid, appointed him on 2nd September, 1952.

Concepts That Emerged from the case

- The validity of the Seventeenth Amendment was challenged in this case
- the five-judge bench of the Supreme Court was that the Seventeenth Amendment limited the jurisdiction of the High Courts and, therefore, required ratification by one-half of the States under the provisions of article 368.
- The words "amendment of this constitution" in article 368 plainly and unambiguously meant amendment of all the provisions of the Constitution; it would, therefore, be unreasonable to hold that the word "law" in article 13(2) took in Constitution Amendment Acts passed under article 368.

The Debate To Amend The Constitution.

- Even if the powers to amend the fundamental rights were not included in article 368, Parliament could by a suitable amendment assume those powers.
- The judgments in Sajjan Singh's case provided the outlines of what was to become, and still is, a method by which the Indian Constitution can be amended.
- Doubts expressed by Hidayatullah and Mudholkar JJ. in Sajjan Singh's case about the correctness of the decision in Shankari Prasad's case were to be confirmed by the majority in the next case to be considered (Golak Nath's case). Golak Nath's case was itself to be overruled by a majority in the Keshvananda bharti's case, this time in favour of Mudholkar J's view that certain features of the Constitution were basic and unalterable. The minority judges in Keshvananda's case were to return to the view of the court in Shankari Prasad's case and the majority in Sajjan Singh's case.

Final Judgment

- The petition was allowed and the order of dismissal passed by the Deputy Inspector General, Jaipur Range on 11th August, 1953, was declared, unconstitutional and was thereby set aside. The petitioner was to get his costs from the State of Rajasthan

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