
(1965) 04 RAJ CK 0011
In the Rajasthan High Court
Case No : Civil Writ Petition No. 655 of 1964

Anand Swaroop Bhatnagar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 16-04-1965

Acts Referred:

Constitution of India, 1950 — Article 16, 311
Rajasthan Forest Service Rules, 1962 — Rule 7

Citation : AIR 1966 Raj 8 : (1967) 1 LLJ 279 : (1965) RLW 272

Hon'ble Judges : D.S. Dave, C.J; Kan Singh, J

Bench : Division Bench

Advocate : B.S. Sharma, for the Appellant; M.M. Vyas, Government Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

Kan Singh, J.—Petitioner Anand Swaroop Bhatnagar seeks to challenge by this writ petition the validity of the Government order dated 7-2-64, reverting him from the post of officiating Assistant Conservator of Forests to the post of Hanger Grade II. The case set out by him in the writ petition may be outlined as follows:

2. The petitioner was an employee of the Forest Department of the erstwhile Bundi State when the first United State of Rajasthan was formed in the year 1948. He was trained in the Forest School at Balaghat before he joined the Forest Department of the erstwhile Bundi State and he was Ranger at the time of the merger of the State. The petitioner's case is that he continued to hold the post of a Ranger all along and when the united State of Rajasthan was formed in the year 1949, he was still holding that post, having worked as Ranger in different districts. When he was integrated with the services in the united State of Rajasthan he was fixed up in grade No. II provided for Rangers, that is, Rs. 100-5-150-EB-10-200. According to the Rajasthan Civil Services (Unification of Pay Scale Rules) Rules, 1950, two grades were provided for the Rangers in the Fore-st Department. The first grade which was Rs. 100-5-150-EB-10-200-

EB-10-300, was admissible to those Rangers who had successfully passed the Rangers' Course at the Forest College, Dehra Dun or any other recognised Institution.

The grade No. II, which we have mentioned already was meant for those Rangers who could not be fixed up in Grade I, for non-fulfilment of the prescribed qualification for that grade. Along with the question of evolving the pay structure the new State took up the question of preparing a seniority list for the Rangers. In doing so, however, no regard was had for the different pay scales prescribed for Rangers Grade I, and Rangers Grade II and they were all put in a common Cadre. When the Rajasthan State was reorganised with the integration of ex-Ajmer State and other areas, a fresh seniority list was prepared in which the officers of the new integrating units were also interlaced on the basis of principles evolved under the State Reorganisation Act. The petitioner proceeds to say that, according to the seniority list that was published in January, 1960, after the reorganisation of the State, his name appeared at serial No. 18. The petitioner came to be promoted to officiate as Sub Divisional Forest Officer in August, 1957, by Government Order No. F.(40) (204)/Revenue/A/56 dated 3rd August 1957, and he was given a special pay of Rs. 50 over and above the salary that he was getting as a Ranger.

We may pause to mention that the Sub Divisional Forest Officers were having only the grade of Rangers with a special pay of Rs. 50 under the Rajasthan Civil Services (Unification of Pay Scale Rules) Rules, 1950, referred to above. Therefore, it appears that the pay scales in Rajasthan were revised on two occasions. This was done at first by the Rationalised Pay Scale Rules and subsequently by the Revised Pay Scale Rules. The position in 1961 thus was that a Sub Divisional Forest Officer came to have a grade of Rs. 225-10-275-EB-10-285-15-435-25-485. The petitioner was getting a pay of Rupees 225 plus Rs. 50 as personal pay, plus Rs. 15 as Dearness Allowance in the revised grade since 1-9-61. While the petitioner was working as Sub Divisional Forest Officer, the Rajasthan Forest Service Rules, 1961, hereinafter to be referred to as the "1961 Rules", came into force. According to these Rules the Rajasthan Forest Service was organised and we will be dealing with the implications of these Rules at the appropriate place.

3. While the petitioner was holding the post of Sub Divisional Forest Officer, he came to be promoted as Assistant Conservator of Forests on 11-6-62, on an ad hoc basis. The petitioner's case is that this promotion was given to him in accordance with Rule 25 of the 1961 Rules. In making a grievance of his reversion from the post of Assistant Conservator of Forests to that of Ranger Grade II, the petitioner submits that though he was entitled to be confirmed on the post to which he was appointed in an officiating capacity in accordance with Rule 32 of the 1961 Rules, he was reverted. He points out that his juniors Servashri S.D. Mathur, Mohan Singh, Someshwar Bhuliyani, Sangram Singh, Sampat Singh and Ganpat Singh were allowed to continue as Assistant

Conservators of Forests. In attacking the order of his reversion,, the petitioner has raised a two-fold contention, Firstly, according to him, this reversion was violative of Article 311 of the Constitution, and secondly, he proceeds to submit, that there was denial of an equal opportunity to him in the matter of holding a superior post in comparison to his juniors and thus, his fundamental right guaranteed by Article 16 of the Constitution was violated.

4. The writ petition has been contested by the State of Rajasthan. It is denied that any breach of Article 311 of the Constitution was involved when the petitioner was reverted as Ranger Grade II in which Cadre he was substantive, for the simple reason that the higher post was given to him only in an officiating capacity on which he had not acquired a lien. In this connection it is pointed out that, according; to the tenor of the order by which he was promoted to officiate on the higher post, he was. allowed to hold it only on an ad hoc basis and, if at any time the Government chose to send the petitioner back to his substantive post this cannot on any consideration be regarded in the nature of a punishment, with the result that Article 311 would not be attracted in the case. Attention is also invited to the subsequent amendments made in the rules governing the Forest Service whereby the eligibility for promotion as Assistant Conservator of Forests was laid down and, according to the respondent State, the petitioner was not eligible to hold the higher post of Assistant Conservator of Forests, We will be making a detailed reference to the relevant rules at the appropriate place.

5. It is also denied that there was denial of equal opportunity in the matter of promotion to the petitioner in comparison to his juniors. In this connection it has been urged that the other persons of whom the petitioner has made a mention were eligible to hold the higher posts by promotion, as they fulfilled the conditions of the Rules. Before we deal with the questions raised before us it will be convenient to refer to the relevant rules by which the matter falls to be examined.

6. The Rajasthan Forest Service Rules, 1961, referred earlier, were made by the Governor of Rajasthan in exercise of his powers under Article 309 of the Constitution and they came into force from 17-2-61, when they were first published in the Rajasthan Gazette. The Rajasthan Forest Service was a State Service. While applying these Rules it was provided by Rule 2 thereof that while all existing rules, orders or instructions in relation to matters governed by these Rules shall stand repealed, any action taken by or in pursuance of such existing rules, orders or instructions shall be deemed to have been taken under these Rules. Rule 6 provided that the length of the service and the nature of the posts thereunder shall be such as may be notified by the Government from time to time, but the present strength of the service was to be as per schedule appended to the Rules, unless the same was varied. Rule 7 indicates the sources of recruitment and embodies therein the principles for making recruitments to the service. One source of recruitment is direct recruitment in accordance with these Rules. The other source of recruitment was by promotion. If we turn to the

schedule there are four categories of posts included in the service; the first one is that of the Chief Conservator of Forests, then in the second category are the Conservators of Forests and the third category consists of Deputy Conservator of Forests. The fourth category comprises of two sub-categories. The first sub-category is of Assistant Conservator of Forests and the second sub-category is of Sub Divisional Forest Officers. We are not concerned in the present case with the first three categories. As against sub-category of Assistant Conservator of Forests it is provided in the Schedule that there shall be direct recruitment and the post shall also be filled up by promotion and the ratio between the direct appointees and the appointees by promotion is fixed as 3 : 1.

About the source of promotion it is laid down in column No. 4 of the schedule that it will be from Rangers Grade I. Then minimum experience required for promotion is laid down as 5 years" service as Rangers Grade I, or 16 years" service as Rangers Grade I and II. As for the second sub-category of Sub Divisional Forest Officers it is laid down that there shall be no direct recruitment to the post as provided in provide (b) to Rule 7. Rule 7 may be reproduced hereunder:

"Rule 7. Sources of Recruitment: (1) recruitment to the post of Assistant Conservator of Forests in the service after the commencement of these rules shall be made by direct recruitment and by promotion from amongst the Rangers Grade I through the agency of the Commission. The ratio of direct recruitment and promotion shall be 3: 1.

Provided that:--

(a) The total number of posts filled up by promotion at any time shall not exceed 25% of the total number of the sanctioned posts in the grade.

(b) there shall be no direct recruitment to the post of sub-divisional forest officer. The present incumbent will, however, continue till they are promoted in due course as Assistant Conservators of Forests.

(ii) Recruitment to the senior posts shall be made by promotion from amongst the members of the service in the next below cadre and who are eligible for promotion under the provisions of these rules;

Provided that if the Government after consultation with the Commission is satisfied that during a particular year no member of the service is suitable for promotion in a particular category direct recruitment may be made to that category through the agency of the Commission on such terms regarding qualifications experience and age etc., as may be prescribed by the Government."

For direct appointees certain academic qualifications have been laid down in Rule 12. This we have pointed out with a view to showing the difference between the eligibility of appointees by promotion in contradistinction to the direct appointees. No academic or educational qualifications have been laid down for persons to be appointed to the service by promotion and as we have already

noticed a person who is holding the post of Ranger Grade I acquires the eligibility for holding the post of Assistant Conservator of Forests by promotion, provided he has put in the requisite length of service as per schedule. Rule 24 lays down the criteria for promotion. It adopts the principle of seniority-cum-merit for the filling up or the promotion quota. Selection by promotion has to be done on the recommendations of a Departmental Promotion Committee in the manner laid down by Rule 25. Rule 27 provides that all substantive appointments to the higher categories shall be made by the Government on occurrence of vacancies by grade promotion within the service as provided in Rule 24 on the basis of criteria of seniority-cum-merit.

Rule 28 makes provision for making emergent temporary appointments in officiating capacity whenever a temporary vacancy is required to be filled up. We may notice that the petitioner came to be appointed as officiating Sub Divisional Forest Officer prior to the making of the 1961 Rules on 3-8-57. However, he came to be appointed as Assistant Conservator of Forests in an officiating capacity after the coming into force of 1961 Rules on the 11th June, 1962, vide Ex, 5. The 1961 Rules came to be replaced by the Rajasthan Forest Service Rules, 1962, hereinafter to be referred as the "1962 Rules", on 5-11-62, when they were first published in the Rajasthan Gazette. The broad pattern of the 1961 Rules is maintained in the 1962 Rules, and in addition it has been provided in the schedule of 1962 Rules that a Sub Divisional Forest Officer would be eligible for promotion to the post of Assistant Conservator of Forests till all these posts of Sub Divisional Forest Officers were exhausted. At the same time a note has been added to the schedule to the effect that the service specified relating to minimum experience required for promotion shall be service rendered in a substantive capacity.

7. We may first deal with the contention about the alleged violation of Article 311 of the Constitution. The admitted position of the case is that the petitioner was holding the post of Assistant Conservator of Forests from which he was reverted by the impugned order only in an officiating capacity. It cannot, therefore, be said that he had come to acquire any lien to hold that post. In the case of the reversion of an officiating appointee to his substantive post the order can be said to violate Article 311, only if the reversion was intended to be by way of punishment. It does not appear that the Government intended to take a penal action against the petitioner by ordering his reversion to his substantive post. In the circumstances we cannot hold that any infringement of Article 311 of the Constitution is involved.

8. The next contention about the applicability of Article 16 of the Constitution falls to be considered on the facts that have been brought before us. It has not been disputed by the respondent State that the petitioner was fixed at No. 18 in the seniority list published in the Rajasthan Gazette of 12th March 1964. The list has been placed before us and is Ex. 2 on the record. It shows that this list was finalised in exercise of the powers of the Governor under proviso to Article 309 of

the Constitution and in accordance with the decision of the Government of India under the provisions of Section 115(5) of the State Reorganisation Act, 1956. The list reflects the position as was obtaining on 1-11-56. The list having been made and published under the Constitutional powers of the Governor and in accordance with the procedure laid down in Section 115 of the State Reorganisation Act has naturally a sanctity around it and we have to examine the position of the petitioner vis-a-vis his alleged juniors in the light of this list. The petitioner has made a clear assertion in Para 15 of his writ petition that Servashri Someswar Bhuliyar, Mohan Singh, Sampat Singh, Sangram Singh and Ganpat Singh were junior to him and they stand respectively at Nos. 46, 47, 62, 63 and 68, in the seniority list referred to above.

9. It emerges from the pleadings of the parties, as already observed, that the petitioner was officiating as Sub Divisional Forest Officer since 3-8-57. He was holding this post when the 1961 Rules came into force. Thereafter on 6-6-62, he was promoted as Assistant Conservator of Forests on ad hoc basis. He was then reverted as Ranger Grade II by the impugned order on 7-2-64. It is also clear from the seniority list Ex-2, that the petitioner was senior to Servashri Someswar Bhuliyar, Mohan Singh and others. We called upon the petitioner to let us know the latest position about the persons who were holding the post of Sub Divisional Forest Officers at the present moment. The petitioner has clarified by his affidavit dated 7-4-65 that Servashri Balbir Singh, Jagdish Narain and S.M. Jain are at present officiating as Sub Divisional Forest Officers. This position has not been disputed by the respondent State. Shri Balbir Singh's name appears at No. 79 in the seniority list Ex. 2. The name of Shri Jagdish Narain appears at No. 22 in the list and that of Shri S.M. Jain appears at No. 72 in the list.

It is thus evident that the petitioner whose name appeared at No. 18 in the list was senior to all these three persons. In this way the petitioner who had officiated as Sub Divisional Forest Officer since 3-8-57, and having earned three increments as Sub Divisional Forest Officer came to be promoted, though on an ad hoc basis, to the higher rank of Assistant Conservator of Forests and he was allowed to continue on that post for more than two years. Thus, it cannot be said, in the facts and circumstances of the case, that the work of the petitioner as Sub Divisional Forest Officer was not considered to be satisfactory. Indeed it is reasonable to infer that it was on account of his satisfactory work that the petitioner was appointed on a still higher post and was allowed to continue there for more than two years. In that situation when he was thrown back as Ranger and three of his juniors were allowed to hold the post of Sub Divisional Forest Officers in preference to the petitioner the question immediately arises whether this amounted to denial of an equal opportunity to him within the meaning of Article 16 of the Constitution.

We called upon the learned Government Advocate to clarify this position by seeking fresh instructions from the Government as the anomaly stared on in the face. It was expected that the Government would reconsider the whole situation

on being apprised of the anomaly. The learned Government Advocate who obtained an adjournment for this purpose in the middle of the arguments could not say anything regarding the suitability of the petitioner to hold the post of the Sub-Divisional Forest Officer, the post that he held immediately before his promotion as Assistant Conservator of Forests. The learned Government Advocate however, submitted that Sarvashri Balbir Singh, Jagdish Narain and S.M. Jain were all Rangers Grade I, and thus the Government considered them to be senior to the petitioner. We have given anxious consideration to this explanation, but find ourselves unable to accept it. As observed already, the seniority list published in the Raiasthan Gazette of 12th March, 1964 (Ex. 2), was prepared in exercise of the powers of the Governor under Article 309 of the Constitution in accordance with Section 115(5) of the State Reorganisation Act, 1956, and thus has sanctity around it.

Till this list is changed in accordance with law the seniority of Rangers will have to be found out only on the basis of this list. We have not been told that there has been any change in the seniority list subsequent to 12th March, 1964, when the list was published in the Gazette and this was done after the 1962 Rules had come into force. It is true that for purposes of promotion to the rank of Assistant Conservator of Forests the source of promotion is from the post of Ranger Grade I, and unless a person was a Ranger Grade I, he could not be considered eligible for promotion as Assistant Conservator of Forest, but this principle is wholly inapplicable in the case of sub Divisional Forest Officers. For them, though there is a provision that they shall be eligible for promotion to the higher cadre of Assistant Conservator of Forests no qualification is prescribed as to who could be promoted as Sub Divisional Forest Officer. We may reproduce below the relevant portions of the schedules to the 1961 Rules and the 1962 Rules:

"SCHEDULE (1961 Rules)

S. No.

Category of Posts

No. of sanctioned posts on 1-4-60

Methods of recruitment with percentage

(1)

(2)

(3)

(4)

4.

(a) The Assistant Conservator of Forest

By direct recruitment and promotion in the ratio of 3:1 as provided under Rule

12.

(b) Sub-Divisional Forest Officer

There shall be no direct recruitment to the posts of S.D.F.C. as provided in proviso (b) to Rule 7

Post from which appointment by promotion can be made

Minimum experience required for person to be promoted

Qualification prescribed for direct recruitment

(5)

(6)

(7)

Ranger Grade I

5 years as Ranger Grade I or 16 years as Ranger Grade I and II."

"SCHEDULE I (1962 Rules)

S. No.

Category of Posts

No. of sanctioned posts on 1-4-62

Methods of recruitment with percentage

(1)

(2)

(3)

(4)

4.

(a) The Assistant Conservator of Forests

11

By direct recruitment and promotion in the ratio of 3:1 as provided under rule 6 (ii).

(b) The Sub-Divisional Forest Officer

4

There shall be no direct recruitment to the posts of S. D. F. C. but incumbents holding these posts shall be eligible for promotion to the post of Asstt. Conservator of Forests till all these posts are exhausted.

Posts from which appointment by promotion can be made

Minimum experience required for person to be promoted

Qualifications prescribed for direct recruitment

(5)

(6)

(7)

S.D. F. C. Ranger Grade I

3 years" service as S. D. F. C. 6 years" service as Ranger Grade I, if holder of a Diploma in Forestry from the Indian Forest College Dehra Dun, 10 years" service as Ranger Grade I for those who do not possess the Diploma from the Indian Forest College, Dehra Dun.

Note: -- Service specified in the column relating to minimum experience required for promotion shall

be service rendered in a substantive capacity."

Unlike the case of an Assistant Conservator of Forests direct recruitments to the cadre of Sub Divisional Forest Officer is prohibited, but as long as the posts of Sub Divisional Forest Officers are continued there is no ban on their being filled up by promotion. Similarly, there is no particular qualification prescribed for promotion as in the case of Assistant Conservator of Forests. That being the position there is no escape from the conclusion that the petitioner has as much title to hold the post of Sub Divisional Forest Officer as his juniors Servashri Balbir Singh, Jagdish Narain and S. M. Jain. It does appear from the note in the schedule to the 1952 Rules that the cadre of Sub-Divisional Forest Officer was a vanishing cadre and was intended to make provision for certain incumbents till they were promoted to the higher rank or otherwise vacated the posts at any time. Anyway, as the Government have been making appointments to the posts of Sub Divisional Forest Officers and have retained the posts they could be filled up only in accordance with the Rules.

As already observed by us for the purposes of promotion to higher posts the Rules adopt the principle of seniority-cum-merit. If a senior person is available and is not shown to lack merit in comparison to his juniors then, all things being equal, he has to be promoted in preference to his junior. If this principle is disregarded then there will be not only a violation of the principle of equality enshrined in Article 16 of the Constitution, but will also involve the infringement of the Rules.

10. We may now briefly refer to the judicial decisions bearing on the applicability of Article 16 of the Constitution.

11. In *The General Manager, Southern Railway Vs. Rangachari*, their Lordships of

the S. C. had to consider the validity of certain circulars issued by the Railway Board reserving certain selection posts in the Railway Service in favour of members of the scheduled castes and scheduled tribes. Their Lordships had occasion to consider the scope of Article 16(1) and (2) of the Constitution. Their Lordships approved the view taken in *The State of Bombay Vs. Ramgopal Ganpatrai Ruia and Another*, and made the following observations:

"The initial employment or appointment is only one of the matters relating to employment or appointment. The other matters relating to employment would be the provision as to the salary and periodical increments therein, terms as to leave, as to gratuity, as to pension and as to the age of superannuation. Similarly, in respect of appointments, such matters would include all the terms and conditions of service pertaining to the said office. All those matters are included in the expression "matters relating to employment or appointment" in Article 16(1).

"Article 16(1) or (2) does not prohibit the prescription of reasonable rules for selection to any employment or appointment to any office. Any provision as to the qualifications for the employment or the appointment to office reasonably fixed and applicable to all citizens would be consistent with the doctrine of the equality of opportunity; but in regard to employment, like other terms and conditions associated with and incidental to it, the promotion to a selection post is also included in the matters relating to employment, and even in regard to such a promotion to a selection post all that Art, 16(1) guarantees is equality of opportunity to all citizens who enter service."

"Article 16(1) and (2) really give effect to the equality before law guaranteed by Article 14 and to the prohibition of discrimination guaranteed by Article 15(1). The three provisions form part of the same constitutional code of guarantees and supplement each other. If that be so, it must be held that the matters relating to employment must include all matters in relation to employment both prior, and subsequent to the employment which are incidental to the employment and form part of the terms and conditions of such employment."

"Article 16(2) prohibits discrimination and thus assures the effective enforcement of the fundamental right of equality of opportunity guaranteed by Article 16(1). The words "in respect of any employment" used in Article 16(2) must, therefore, include all matters relating to employment as specified in Article 16(1). Therefore, promotion to selection posts is included both under Article 16(1) and (2)."

12. It will be apposite to quote the dicta of *The State of Bombay Vs. Ramgopal Ganpatrai Ruia and Another*, which was approved by their Lordships of the Supreme Court. The observations of the learned Judges of the Bombay High Court were as follows:

"Article 16 in terms clear and ample speaks of all "matters relating to employment" and it is impossible to accede to the suggestion that what is

contemplated by Article 16 is only the initial stage when the citizen is employed to serve the State. All along during the continuance of the engagement or office, he is assured of that equality of opportunity, and the same principle must govern the case when the appointment or employment is sought to be terminated.

Article 16 is in plain general terms and there is no reason or necessity for subtracting temporary services from the operation of that article. The guarantee extends to every citizen and every employment or appointment whether permanent or temporary. It is essentially a question not of the nature or tenure of the engagement but of the basic guarantee of equable treatment assured by the Constitution. If the termination of service was on grounds extraneous, the order of termination would be without competence and jurisdiction and order must be treated as if it had not been made at all."

The Punjab High Court in *S.G. Jaisinghan v. Union of India*, AIR 1964 Punj 155 had occasion to consider the validity of a rule in the light of Article 16 of the Constitution and following the principles laid down by their Lordships in the above case observed as follows:

"The equality of opportunity which is guaranteed by Article 16(1) of the Constitution, stems from the recognition in the Constitution that all persons in the service of the State similarly situated are entitled to an equal opportunity not only in the matter of appointment but in promotion and other conditions of service. The guarantee enshrined in Article 16, therefore, does not exhaust itself after the first appointment in a particular branch of service and would include promotions to selective posts. In other words, if the advancement of the persons in same service is impeded or retarded by a rule which is found to be unjust or unreasonable in so far as it accords undue preference to one class in the same service as against another, the attack would certainly be open for examination and scrutiny of the High Court under Article 16 of the Constitution.

13. The Mysore High Court too had occasion to consider whether Article 16 of the Constitution is attracted in a case where a junior has been promoted over the head of his senior even though this is done in a temporary capacity. It was observed that though promotion of an employee depends on a variety of considerations and a promotion cannot be claimed as a matter of right, yet an employee has a right to ask for the consideration of his claim for promotion along with other persons who are similarly situate. The relevant observations of the learned judges of the Mysore High Court in *A. N. Nagnoor v. State of Mysore* AIR 1964 Mys 229 may be quoted hereunder:

"It is no doubt true that promotion of an employee depends on a multitude of considerations and that an employee cannot claim it as of right. But in normal course of things when a senior on account of his seniority expects a promotion as it is due to him, he would be promoted unless he is otherwise found unfit. Therefore an employee has a right to ask for the consideration of his claim for promotion along with other persons who are similarly situate. If the promoting

authority overlooks his claim or does not apply its mind as to whether he is fit or not for promotion, but supersedes his claim by promoting his junior, then such employee is entitled to complain to the court that the authority has violated the principle of equality of opportunity embodied in Article 16 and to request that such order should be quashed and that the promoting authority be directed to consider his claim for promotion."

14. In the present case though the petitioner cannot legitimately make any grievance against his reversion from the post of an Assistant Conservator of Forests on account of his lacking the necessary eligibility under the 1962 Rules, he could certainly claim an equal treatment with his juniors in the matter of appointment as Sub Divisional Forest Officer. As already observed by vis the petitioner is as much eligible for the post of Sub Divisional Forest Officer as his juniors Servashri Balbir Singh, Jagdish Narain and S.M. Jain. Indeed the petitioner had been holding the post of Sub Divisional Forest Officer since 3-8-57, till he was promoted as Assistant Conservator of Forests in June 1962. Thus, in the normal course his reversion should have been to the post of Sub Divisional Forest Officer and not to a rank one step still lower. Consequently in our view there has been a violation of Article 16 of the Constitution in the case of the petitioner.

We are most reluctant to make incursions in the matter of postings which rightly lie in the domain of the Government, but where such postings result in a clear violation of a fundamental right guaranteed by the Constitution our plain duty is to interfere even in such administrative matters to give the necessary relief to a citizen. We adjourned the case in the midst of arguments in the expectation that the right thing would be done in the meantime, but as the desired result was not brought about we have been left with no choice but to grant relief to the aggrieved employee.

15. The result is that we hereby accept the writ petition in part and while we maintain the impugned order to the extent the petitioner has been reverted from the post of officiating Assistant Conservator of Forests, we quash the order in so far as the petitioner has been reverted to the post of Ranger Grade II, and we direct the Government to post him as Sub Divisional Forest Officer in officiating capacity as he was prior to his promotion as officiating Assistant Conservator of Forests on 11-6-62. We may, however, make it clear that as the petitioner was only an officiating Sub Divisional Forest Officer in terms of Government order No. F. (40) (204)/Revenue/A/56 dated 3rd August, 1957, it will be open to the Government to deal with the petitioner as an officiating appointee in accordance with Rules. In the circumstances of the case we order the parties to bear their own costs.