
(2017) 03 KAR CK 0166
In the Karnataka High Court
Case No : 21523-21575 of 2016

SRI CHIKKALINGAIAH, & ORS.

APPELLANT

Vs

STATE OF KARNATAKA, & ORS.

RESPONDENT

Date of Decision : 07-03-2017

Acts Referred:

[State Civil Services \(Special\) Rules, 1996](#), Rule 4

Citation : (2017) 03 KAR CK 0166

Hon'ble Judges : Jayant Patel, N.K.Sudhindrarao

Bench : DIVISION BENCH

Advocate : SRI. V.LAKSHMINARAYANA, SRI.D.NAGARAJ

Judgement

1. These petitions are directed against the common order, which is under challenge, and which are being considered simultaneously.
2. The brief facts of the case appear to be that the petitioners were initially appointed on contract basis, thereafter, before the contract period was over, the advertisement was issued inviting applications for a fixed consolidated salary, again for a fixed period. The said action was challenged by the petitioners before the Tribunal and the Tribunal ultimately vide order dated 29.02.1988 directed that the Authorities cannot escape the liability to pay to these applicants the pay-scale attached to the post and the Tribunal further directed the Authorities to accord the pay-scale to the applicants therein with effect from the date they were appointed to the respective posts. It appears that thereafter the order was not complied with and therefore, contempt proceedings were preferred before the Tribunal and on 18.05.1989, in the contempt proceedings, the Government Pleader declared that all the applicants of the said proceedings are being given their pay at the rates suggested in the proceedings. Thereafter, the Government further issued Circular. The aforesaid declaration was made since Circular dated 16.03.1989 was issued by the competent Authority to comply with the direction of the Tribunal in the aforesaid matter.

3. It appears that thereafter the State Legislature on 15.02.1996 framed the statutory rules known as "Karnataka Civil Services (Absorption of persons appointed on contract basis in the category of posts of Craft Instructors/Junior Instructors) (Redesignated as Junior Training Officers) in the Department of Employment and Training (Training Wing) into State Civil Services (Special) Rules, 1996 and Rule 4 provided as under: "4. Pay fixation, Seniority, Leave and Pension of Junior Training Officers absorbed under these rules:

(1) The initial basic pay of a Contract Junior Training Officer absorbed under these rules shall be fixed in the scale of pay of the Junior Training Officer to which he is appointed, at a stage equal to the basic pay that he would have been eligible to draw had he been appointed to such post as a regular candidate in accordance with the Karnataka Employment and Training Services (Craftsman and Apprenticeship (Recruitment) Rules, 1985 with effect from the date of his appointment as Craft Instructor/Junior Instructor on contract basis.

(2) The services rendered as a Craft Instructor/Junior Instructor (now redesignated as Junior Training Officer) shall count for the purpose of leave, increment and pension only and services rendered on Contract Basis shall not count for purposes of Seniority and grant of Selection Time Scale of Pay under the Karnataka Civil Service (T.B.A.) Rules, 1983 and Karnataka Civil Service (Automatic grant of Special Promotion to Senior Scale of Pay) Rules, 1991." (emphasis supplied)

4. The aforesaid was the position so far as the Writ Petition Nos.21523-21575/2016 are concerned. However, so far as W.P.Nos.21576-21634 and 21635-21640/2016 are concerned, by the Notification 19.07.2004, similar Rules were framed and Rule 4 of the said Rules provides as under: "4. Pay, Pension, Leave and Seniority of Junior Training Officers absorbed under the rules:-

Notwithstanding anything contained in the Karnataka civil services rules:-

i) The initial basic pay of a contract Junior Training Officer absorbed under these rules shall be fixed in the scale of pay of the Junior Training officer to which he is appointed at a stage equal to the basic pay that he would have been eligible to draw had he been appointed to such post as a regular candidate in accordance with the Karnataka Employment and Training service (craftsman and Apprenticeship (Recruitment) Rules, 1985 with effect from the date of his appointment as Craft Instructor/Junior Instructor on contract basis.

ii) The services rendered as a Craft Instructor/Junior Instructor (now redesignated as Junior Training Officer) shall count for the purpose of leave, increment and pension only and service rendered on Contract Basis shall not count for purposes of Seniority and grant Selection Time Scale of Pay under the Karnataka Civil Service (T.B.A.) Rules 1983 and Karnataka Civil Services (Automatic grant of Special Promotion to senior Scale of Pay) Rules 1991."

5. It appears that thereafter the Rules known as Karnataka Civil Services (Absorption of persons appointed on contract basis in the category of posts of Craft Instructors/Junior Instructors) (Re-designated as Junior Training Officers) in the Department of Employment and Training (Training Wing) (Special) (Amendment) Rules, 2012 came to be enacted with the retrospective effect from 15.02.1996 and Sub-Rule 4 of the said Rules provides as under:- "4. Pay, Pension Leave and Seniority of Person absorbed under these rules:- Not withstanding anything contained in the Karnataka Civil Services Rules:-

1) The initial basic pay of the contract Junior Training Officer shall be fixed at the minimum of the pay scale applicable to the category of post to which he is absorbed under rule 3.

2) The Services rendered by a person as Junior Training Officer/Craft Instructor/Junior Instructor prior to the date of absorption shall not count for the purposes of leave pension pay, seniority and grant of selection time scale of pay under the KCS (Time Bound Advancement) Rules, 1983 and Karnataka Civil Services (Automatic grant of special promotion to senior scale of pay) Rules, 1991."

6. Since by virtue of the amendment brought about in the Rule that too with retrospective effect as back as from 15.02.1996, the petitioners approached the Tribunal by preferring respective applications challenging the validity of the Rules. The Tribunal ultimately for the reasons recorded in the order, dismissed the applications. Under the circumstances, the present petitioners are before this Court.

7. We have heard Mr.Laxminarayana, learned Senior Counsel for Ms.Shilpa appearing for the petitioners and Mr.Nagaraj, learned AGA appearing for the Respondents State and its Authorities.

8. We may at the outset record that when the matter was considered at the admission stage on 29.06.2016, this Court had passed the following order: "We have heard Mr.V.Lakshminarayana, learned Senior Counsel for Mr.Sharadkumar S., on behalf of Balaji Associates, appearing for the petitioners in all the matters and Mr.Aditya Sondhi, learned Addl. Advocate General with Mr.D.Nagaraj, learned AGA appearing for the respondents.

Upon hearing the learned Advocates appearing for both the sides, it appears that the following positions are undisputed:

1.By virtue of the order passed by the Karnataka Administrative Tribunal dated 29.02.1988, the petitioners herein were held to be entitled to pay- scale attached to the post, even if they were working on contractual basis and the Tribunal had directed the respondents to pay the pay44 scale to the petitioners for the post in question with effect from the date on which they were appointed.

2.By notification dated 15.02.1996 in W.P.Nos.21523- 21575/2016, Rules known as The Karnataka Civil Services (Absorption of Persons Appointed on Contract basis in the category of posts of Craft Instructors/Junior Instructors

(Redesignated as Junior Training Officers) in the Department of Employment and Training (Training Wing) into State Civil Services (Special) Rules, 1996, were framed. It was provided as per Rule 4 as under:

4. Pay fixation, Seniority, Leave and Pension of Junior Training Officers absorbed under these rules.-

(1) The initial basic pay of a Contract Junior Training Officer absorbed under these rules shall be fixed in the scale of pay of the Junior Training Officer to which he is appointed, at a stage equal to the basic pay that he would have been eligible to draw had he been appointed to such post as a regular candidate in accordance with the Karnataka Employment and Training Services (Craftsman and Apprenticeship (Recruitment) Rules, 1985 with effect from the date of his appointment as Craft Instructor/Junior Instructor on contract basis.

(2) The services rendered as a Craft Instructor/Junior Instructor (now redesignated as Junior Training Officer) shall count for the purpose of leave, increment and pension only and services rendered on Contract Basis shall not count for purposes of Seniority and grant of Selection Time Scale of Pay under the Karnataka Civil Service (T.B.A.) Rules, 1983 and Karnataka Civil Service (Automatic grant of Special Promotion to Senior Scale of Pay) Rules 1991."

In W.P.Nos.21576-21634/2016 & W.P.Nos.21635-40/2016, by notification 19.07.2004 similar Rules were framed. It was provided as per Rule 4 as under:

"4. Pay, Pension, Leave and Seniority of Junior Training Officers absorbed under the rules:- Notwithstanding anything contained in the Karnataka civil services rules:-

i) The initial basic pay of a contract Junior Training Officer absorbed under these rules shall be fixed in the scale of pay of the Junior Training officer to which he is appointment at a stage equal to the basic pay that he would have been eligible to draw had he been appointed to such post a regular candidate in accordance with the Karnataka Employment and Training service (craftsman and Apprenticeship (Recruitment) Rules, 1985 with effect from the date of appointment as Craft Instructor/Junior Instructor on contract basis.

ii) The services rendered as a Craft Instructor/Junior Instructor (now re-designated as Junior Training Officer) shall count for the purpose of leave, increment and pension only and service rendered on Contract Basis shall not count for purposes of Seniority and grant of Selection To Scale of Pay under the Karnataka Civil Service (T.B.A.) Rules 1983 and Karnataka Civil Services (Automatic grant of Special Promotion to senior Scale of Pay) Rules 1991."

(emphasis supplied)

Pursuant to the aforesaid Rules of 1996 and 2004, all the petitioners were absorbed on the respective posts and the benefits were conferred for leave, increment and pension only on the basis of their services rendered earlier on

contract basis prior to the absorption.

In the aforesaid facts and circumstances of the case, the Government has brought about the Rules known as the Karnataka Civil Services (Absorption of persons appointed on contract basis in the category of posts of Craft Instructors/Junior Instructors) (Re-designated as Junior Training Officers) in the Department of Employment and Training (Training Wing) (Special) (Amendment) Rules, 2012. Sub-rule (4) of the said Rules reads as under:

4. Pay, Pension Leave and Seniority of Person absorbed under these rules:- Not withstanding anything contained in the Karnataka Civil Services Rules:-

1) The initial basic pay of the contract Junior Training Officer shall be fixed at the minimum of the pay scale applicable to the category of post to which he is absorbed under rule 3.

2) The Services rendered by a person as Junior Training Officer/Craft Instructor/Junior Instructor prior to the date of absorption shall not count for the purposes of leave pension pay, seniority and grant of selection time scale of pay under the KCS (Time Bound Advancement) Rules, 1983 and Karnataka Civil Services (Automatic grant of special promotion to senior scale of pay) Rules, 1991."

(emphasis supplied)

Challenge by the petitioners herein is that the aforesaid Rules, are made with the retrospective effect to take away the benefits already accrued to them as per Rules of 1996 and Rules of 2004 and the absorption made thereafter. Hence, it has been contended that the Rules are unconstitutional and void. Whereas the learned Addl. Advocate General contended that the State has power to legislate the rule with retrospective effect, even if any vested right was created by virtue of the Rules prevailing then upon the employee concerned.

In our prima facie view, Rule which seeks to reverse from an anterior date, the benefit which has been granted or availed, which is in the present case for leave, pension etc., can be said that violative of Articles 14 and 16 of the Constitution to the extent which operates retrospectively. At this stage, we may usefully refer to a decision of the Apex Court in the case of *Chairman, Railway Board And Others Vs. C.R.Rangadhamaiah And Others* reported at (1997) 6 SCC 623 and more particularly, the observations made at paras 20 to 24 which read as under:

20. It can, therefore, be said that a rule which operates in future so as to govern future rights of those already in service cannot be assailed on the ground of retroactivity as being violative of Articles 14 and 16 of the Constitution, but a rule which seeks to reverse from an anterior date a benefit which has been granted or availed of, e.g., promotion or pay scale, can be assailed as being violative of Articles 14 and 16 of the Constitution to the extent it operates retrospectively.

21. In *B.S. Yadav & Ors. Etc. v. State of Haryana* [1981] 1 SCR 1024, a

Constitution Bench of this Court, while holding that the power exercised by the Governor under the Proviso to Article 309 partakes the characteristics of the legislative, not executive, power and it is open to him to give retrospective operation to the rules made under that provision, has said that when the retrospective effect extends over a long period, the date from which the rules are made to operate must be shown to bear, either from the face of the rules or by extrinsic evidence, reasonable nexus with the provisions contained in the rules. (SCR p. 1068 : SCC p.557, para 76)

22. In *State of Gujarat v. Raman Lal Keshav Lal Soni* [1983] 2 SCR 287, decided by a Constitution Bench of the Court, the question was whether the status of ex-ministerial employees who had been allocated to the Panchayat service as Secretaries, Officers and Servants of Gram and Nagar Panchayats under the Gujarat Panchayat Act, 1961 as government servants could be extinguished by making retrospective amendment of the said Act in 1978. Striking down the said amendment on the ground that it offended Articles 311 and 14 of the Constitution, this Court said : (SCC p.62, para 52)

"52?..The legislature is undoubtedly competent to legislate with retrospective effect to take away or impair any vested right acquired under existing laws but since the laws are made under a written Constitution, and have to conform to the do's and don'ts of the Constitution, neither prospective nor retrospective laws can be made so as to contravene Fundamental Rights. The law must satisfy the requirements of the Constitution today taking into account the accrued or acquired rights of the parties today. The law cannot say, twenty years ago the parties had no rights, therefore, the requirements of the Constitution will be satisfied if the law is dated back by twenty years. We are concerned with today's rights and not yesterday's. A legislature cannot legislate today with reference to a situation that obtained twenty years ago and ignore the march of events and the constitutional rights accrued in the course of the twenty years. That would be most arbitrary, unreasonable and a negation of history."

23. The said decision in *Raman Lal Keshav Lal Soni* of the Constitution Bench of this Court has been followed by various Division Benches of this Court. (See *K.C. Arora v. State of Haryana* [1984] 3 SCR 623; *T.R. Kapur v. State of Haryana* [1987] 1 SCR 584; *P.D. Aggarwal v. State of U.P* [1978] 3 SCR 427; *K. Narayanan v. State of Karnataka* [1994] Supp. 1 SCC 44; *Union of India v. Tushar Ranjan Mohanty* [1994] 5 SCC 450 and *K. Ravindranath Pai v. State of Karnataka* [1995] Supp. 2 SCC 246.

24. In many of these decisions the expressions "vested rights" or "accrued rights" have been used while striking down the impugned provisions which had been given retrospective operation so as to have an adverse effect in the matter of promotion, seniority, substantive appointment, etc. of the employees. The said expressions have been used in the context of a right flowing under the relevant rule which was sought to be altered with effect from an anterior date and thereby taking away the benefits available under the rule in force at that time. It has

been held that such an amendment having retrospective operation which has the effect of taking away a benefit already available to the employee under the existing rule is arbitrary, discriminatory and violative of the rights guaranteed under Articles 14 and 16 of the Constitution. We are unable to hold that these decisions are not in consonance with the decisions in Roshan Lal Tandon (supra), B.S. Yadav (supra) and Raman Lal Keshav Lal Soni (supra). Under the circumstances, it prima facie appears to us that the amendment brought about by the Rules of 2012, so far as retrospectivity is concerned, it would be violative of Articles 14 and 16 of the Constitution.

Apart from the above, the question may remain as to whether the State can be permitted to take away the benefit by bringing about the amendment so as to nullify the effect of the order of the Tribunal and hence the legislative action of the State can be said to be in colourable exercise of the power or not.

It further appears that large number of employees may be continued in service and some of them may retire by efflux of time. If the effect is given of the proposed amendment qua, the petitioners whose rights were already in existence and crystallized by Rules of 1996 and Rules of 2004 in the respective writ petitions, it may create a lot of complications in fixation of pension, payment of retiral benefits, gratuity etc. Hence we find that service condition of the petitioners deserves to be maintained and the retrospective effect of the Rules of 2012 which is under challenge should not operate qua the petitioners herein. If the matter is examined in the light of the aforesaid observation, prima facie it appears that the Tribunal has committed an error in dismissing the applications or rather the Tribunal has erroneously not considered the retrospectivity of the Rules vis-?-vis the provisions of Articles 14 and 16 of the Constitution read with the above referred decision of the Apex Court. Hence the matter deserves consideration and the appropriate interim order also deserves to be passed.

In view of the above, following :

ORDER

1. Rule returnable on 26.10.2016.

2. By interim order, the status quo qua present

service conditions of the petitioners which are governed by the Rules of 1996 and 2004 in the respective writ petitions, shall be maintained on condition that in event the petitioners fail in the petitions, they would be liable to refund the amount of the difference as per Rules of 2012, if applied with retrospective effect."

9. As recorded earlier, today we have heard the learned counsel appearing for both the sides for final disposal. In our view, the position of law is no more resintegra and the issues as such can be said as covered by the decision of the Apex Court in the case of Chairman, Railway Board and others Vs. C.R.Rangadhamaiah and others reported at (1997)6 SCC 623 and more

particularly, the observations made at Paragraph Nos.20 to 24 which has been already re-produced in the earlier order dated 29.06.2016. Hence, we find that we need not repeat the same.

10. Learned Additional Government Advocate appearing for the Respondents, mainly relied upon the decision of the Apex Court in the case of CMD/Chairman, Bharat Sanchar Nigam Limited and others Vs. Mishri Lal and others (2011) 14 SCC 739 and he pressed into service the observations made in Paragraph No.16 of the said decision of the Apex Court and he contended that decision upon, which reliance has been placed by the counsel for the petitioners has been subsequently considered by the Apex Court and it has been held that "vested right" is the constitutional right, and "vested right" would only mean statutory right. In the submission of the learned Additional Government Advocate, by bringing about the amendment, in the year 2012 which is the effect of the substitution, no constitutional right is altered or is taken away and therefore, he submitted that such matter may not be termed as taking away the vested right or altering the vested right. In the submission of the learned Additional Government Advocate, the Legislature has power to do so and hence, he submitted that the case could not be said as covered by the earlier decision of the Apex Court in the Case of Railway Board *supra*.

11. As such, in the decision of the Apex Court in the case of CMD/Chairman, Bharat Sanchar Nigam Limited and others Vs. Mishri Lal and others (*supra*), the validity of the Rules were challenged at a stage where posts were not filled up and the posts were to be filled up with the amended Rule, and at that stage the question came up for consideration as to whether such an amendment with the retrospective effect can be maintained or not? In our considered view, the facts of the present case cannot be associated with the facts of the decision of the Apex Court in the case of BSNL (*supra*), for the simple reason that in the present case, the rights were so conferred upon the petitioners by statutory enactment for counting of the services rendered earlier for the purpose of leave, increment, pension and it was only not to be considered for the purpose of Seniority and the grant of selection of time scale. As we are not required to examine the benefits not granted by the earlier statutory enactment, we need not discuss further but in the present matter, as the subject relates to the benefits already granted are to be taken away by the substitution of Rules. It needs to be emphasized that the services rendered earlier as Craft Instructors/ Junior Instructors (now redesignated as Junior Training Officer) by statutory enactment of the Rules was to be counted for the purpose of leave, increment and pension. Under the circumstances, it can be said that the Rules conferred the benefit and the Rules were made in exercise of the rule making power by the State Government. Once the statutory enactment conferred the rights by virtue of Rules of 1996 and also as well as by virtue of above referred Rules of the 2004 the "vested right" came to be conferred for the purpose of leave, increment and pension of the petitioners. It is hardly required to be stated that the rights so conferred are by bringing about the amendment resulting into substitution, are sought to be taken

away. The benefits or the rights so created by the statutory enactment of the earlier Rules have been conferred, enjoyed by the petitioners and such rights conferred are sought to be taken away.

12. One can examine the matter from three facets: one is the scope of the legislative power to bring about the Rule with the retrospective effect resulting into taking away the vested right, second facet is that, even if it is considered that such power is available to the Legislature then also, what is the extra-ordinary circumstance satisfactorily demonstrated before the Court to bring about a statute with the retrospective effect and, the third facet is, whether such statute of 2012 could be said to be an encroachment on the judicial powers of the Court so as to nullify the judgment of the competent Forum in the system of administration of justice or not.

13. We may now consider the aforesaid facets for testing the validity of the impugned Rule for bringing about the substitution of the Rules. It is well settled that whenever any statute or the rule is made by the Legislature as for a subordinate legislation, such rule is to be made with the prospective effect, and if challenged, the burden would be upon the Rule Making Authority to satisfactorily demonstrate the extra-ordinary circumstances exercising the power to amend or introduce the rule with the retrospective effect. No material is produced except bare statement that the benefit granted by the earlier Rules of 1996 created anomalies amongst the Departments. Further, no material is produced by an exercise undertaken with an object to make the rule for giving retrospective effect while making such subordinate legislation. Hence, we find that when such a burden is not discharged, the rule would not meet with the test of Article 14 of the Constitution. The reference may be made to the decision of the Apex Court in the case of State of Kerala and another Vs. Unni and others reported in 2007(2) SCC 365 and more particularly observation made at Paragraph nos.30 to 36.

14. The examination of the third facet for testing the validity of the amendment in the rule further shows that for the rights of the petitioners and other similarly situated persons, for getting the pay-scale on the contract basis, the matter was brought before the Karnataka Administrative Tribunal and the Tribunal vide order dated 29th February, 1988 expressly ruled as under: "In the circumstances, the Authorities cannot escape the liability to pay to these applicants the pay-scale attached to the post. They are hereby directed to accord the pay60 scale to these officials with effect from the date that they have been appointed to these posts in each of these applications".

15. Not only that but thereafter, in the contempt proceedings, the above referred declaration was made and the policy decision by way of a Circular was taken to implement the decision of the K.A.T.

16. Not only that, but, thereafter by statutory enactment, Rules of 1996 as well as Rules of 2004 were framed conferring the benefits as per the judicial pronouncement made by the Tribunal .

17. Therefore, if any such right is sought to be tinkered with or is altered or is attempted to be taken away, it would result into encroachment on the judicial decision of a competent forum and can also be termed as encroachment of the power. At this stage we may usefully refer to the decision made by the Apex Court in the case of S.R.Bhagwat and others Vs State of Mysore reported at (1995) 6 SCC 16 wherein the Apex Court had an occasion to consider the scope of the legislative power for undoing the directions of the Division Bench of the court and it was observed inter alia at paragraph 19 as under: "19. It was contended by Shri Madhava Reddy that even assuming that the Division Bench judgment remained binding on the State despite the provisions of the impugned Act, all that the Division Bench has directed the State is to consider the case of the petitioners for deemed promotions on the basis of the final seniority list. That has already been done and the petitioners have no grievance for the same. So far as the consequential financial benefits are concerned they would not cover the monetary benefits flowing from such deemed promotions. Even this submission cannot be countenanced. We have already extracted earlier the operative portion of the judgment of the Division Bench. It has been in terms directed that if the petitioner is found fit and promoted he may be given all the benefits consequential thereto including the financial benefits. It is, therefore, obvious that once the deemed date of promotion is given to the petitioners concerned it cannot be merely notional promotion re-fixing his pay in the promotional cadre with increments etc. but also would bring in its wake all consequential financial benefits, namely, the salaries that have accrued to them on account of such deemed promotions. Whether such deemed promotions can also entail actual monetary benefits when the employees concerned had not worked on the promotional posts, is a question which could have been agitated by the respondent-State, if so advised, by challenging the order of the Division Bench before this Court.

That was not done. Instead it resorted to its legislative power for undoing the said directions of the Division Bench by arming itself with the power to review that judgment by resort to its legislative function. That was clearly not permissible as it was an act of encroachment on the judicial pronouncement of the High Court which had remained binding on the respondent-State. The ratio of the decisions of this Court as discussed earlier clearly get attracted on the facts of the present case and on the same grounds on which this Court invalidated the relevant provisions of Arbitration (Orissa Second Amendment) Act, 1991 in G.C. Kanungo. Section 11 sub-section (2) of the impugned Act also has to be declared ultra vires and invalid. (emphasis supplied)

18. Whether such deemed promotions can also entail actual monetary benefits when the employees concerned had not worked on the promotional posts, is a question which could have been agitated by the respondent-State, if so advised, by challenging the order of the Division Bench of this Court. That was not done. Instead it resorted to its legislative power for undoing the said directions of the Division Bench by arming itself with the power to review that judgment by resort

to its legislative function. That was clearly not permissible as it was an act of encroachment on the judicial pronouncement of the High Court which had remained binding on the respondent- State.

19. We may also record that the aforesaid decision of the Apex Court in case of S.R.Bhagawat Vs. State of Mysore (supra) has been subsequently considered by the Apex Court in the case of S.T.Sadiq Vs. State of Kerala and others reported in (2015) 4 SCC 400 and the same view is reiterated by the Apex Court.

20. Apart from the aforesaid two facets for testing the validity of the Rule brought about by way of the impugned amendment, we do find that considering the totality of the circumstance namely; 1) That by the judicial decision of the Tribunal, the rights and the entitlement were so conferred.

2) In the contempt proceedings for enforcement of the judgment of the Tribunal, the declaration was made that a policy decision was taken by issuance of the Circular of the State Government as per the decision of the Tribunal.

3) The statutory enactments were made by framing all the Rules of 1996 as well as 2004 for conferment of the benefit.

4) The rights came to be actually stood vested are sought to be altered for the purpose of length of service, leave, pensionary benefits and others.

21. Hence, it is not possible for us to accept the contention of the learned Government Advocate that such rights would not fall in the category of vested rights which could be altered by the legislative power. In our considered view, even if the contention is raised to the extent that the constitutional rights cannot be altered and the statutory rights can be altered, then also if the rights were so conferred by the judicial pronouncement and such rights came to be crystalised by acceptance of the judicial pronouncement and one point of time statutory enactment was also made, if all such rights are read with the test of Article 14 of the Constitution, it can be said that by the impugned amendment of Rule by way of deletion of the earlier rule and by way of substitution with the retrospective effect, the constitutional rights are attempted to be taken away. Hence, the impugned amendment would not met with the constitutional validity if the matter is examined, keeping in view the aforesaid first facet for testing the validity of the amendment brought about.

22. In view of the above aforesaid observation and discussion, we find that the impugned amendment in the Rule known as the Karnataka Civil Services (Absorption of persons appointed on contract basis in the category of posts of Craft Instructors/Junior Instructors (Redesignated as Junior Training Officers) in the Department of Employment and Training (Training Wing) (Special) (Amendment) Rules, 2012 as well as the other rules called as The Karnataka Civil Services (Absorption of persons appointed on contract basis in the category of posts of Craft instructors/Junior Instructors (Re-designated as Junior Training Officers) in the Department of Employment and Training (Training Wing) into

State Civil Services (special) (Amendment) Rules, 2012 are constitutional and void, so far as they relate to the employees whose rights were already conferred and accrued by earlier rules which came into force and operated from 15.2.1996 as well as from 19.7.2004.

23. We may record that the learned Additional Government Advocate submitted that there are other employees who may be effected by the present amendment of both the rules and therefore if the rules are declared to be unconstitutional without any specific limitation, it may create other complications and therefore it was submitted that the relief even if it is found to be granted by the Court such relief be limited to the petitioners who were before the Tribunal only. We find considerable force in the contention inasmuch as the other employees if have not approached before this Court, no benefit should be conferred more particularly when the petitions are under Article 226 of the Constitution arising from the order of the Tribunal.

24. Hence, we find it appropriate to observe that by the Rules of 2012 bringing about the deletion and amendment shall be interpreted to mean that it would not alter the rights already conferred earlier to the petitioners herein and to that extent instead of striking down both the Rules of 2012 as unconstitutional, we find it appropriate to read down the said Rules to that extent.

25. In view of the foresaid observations, the impugned orders passed by the Tribunal are set aside. The petitions before the Tribunal shall stand allowed to the aforesaid extent. Rule made absolute.

Accordingly petitions are allowed.

Considering the facts and circumstances, no order as to costs.