HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Contempt Case No.1785 of 2011

Date: December 31, 2013

Between:

Mohd. Yousuf Ali (died per L.Rs.)

Tahara Begum and others

… Petitioners

And

Sri Anil Chandra Punetha and others

… Respondents

Order: (Per Justice R. Subhash Reddy)

This Contempt Case is filed by the legal heirs of one late
Mohd. Yousuf Ali, alleging wilful disobedience on the part of the respondents in complying with the directions of this Court in the order dated 01.03.2011 passed in W.P.No.16932 of 2001.

2. Late Mohd. Yousuf Ali was appointed as Lower Division Clerk (Junior Assistant) in Revenue Department on 02.04.1962 and posted to Revenue Divisional Office, Medak, Sangareddy. Subsequently, he was posted as Special Levy Inspector, Andole and later deputed to Chilver check-post of erstwhile Andole Taluq and on the

allegation of accepting bribe he was placed under suspension in initiated departmental proceedings with effect from 07.02.1966. Subsequently, after completion of enquiry, he was removed from service by order dated 09.12.1966. Questioning his removal from service, he approached this Court and the matter was remitted for reconsideration by the Collector. Again he was dismissed from service by order dated 21.05.1976. Questioning the said order, he approached the A.P. Administrative Tribunal, Hyderabad and as per the orders of the Tribunal, again, his case was considered and order of removal was passed on 09.02.1982. Even against the said order, again, he filed appeal and when the order dated 09.02.1982 was confirmed, he filed Representation Petition No.1903 of 1986 before the A.P. Administrative Tribunal, Hyderabad, which was allowed by order dated 25.02.1987. The operative portion of the said order reads as under:

> "In view of the decision given above, it is ordered that the petitioner shall be immediately reinstated in service forthwith in the same rank he held at the time of his suspension. The question is whether he should get any consequential rights. Since the petitioner is being restored to service without any stigma on his character proved legally, he should get consequential rights on a fair basis. In my view, the petitioner should be given arrears of salary in the rank of LDC subject to all revisions from time to time from the date of his suspension in 1966 upto date subject to

> deduction of amount already drawn as subsistence allowance. He will get other consequential benefits in accordance with the rules.
>
> R.P. allowed accordingly but with no order as to costs."

3. Alleging disobedience of the aforesaid order, he filed M.A.No.907 of 1995, which was dismissed. Again, he filed Rev.M.A.No.982 of 1996 and the same was also dismissed by order dated 29.09.2000. Questioning the said order passed in Rev.M.A.No.982 of 1996 in M.A.No.907 of 1995 in R.P.No.1903 of 1986, he approached this Court by filing W.P.No.16932 of 2001, which was allowed by order dated 01.03.2011. The operative portion of the said order reads as under:

> "The writ petition is accordingly, allowed. The impugned order, dated 29.09.2000 passed in Rev.M.A.No.982 of 1996 in M.A.No.907 of 1995 in R.P.No.1903 of 1986 is set aside. It is held that the deceased petitioner would be entitled to all the benefits including the attendant benefit, arrears of salary etc., as already directed by the Tribunal in the order, dated 25.02.1987 in R.P.No.1903 of 1986. No order as to costs."

4. After orders were passed by the Tribunal on 25.02.1987 in R.P.No.1903 of 1986, the deceased-Mohd. Yousuf Ali was reinstated into service, vide Proc.No.A3/4764/85, dated 28.04.1987, issued by the Collector, in the rank of Junior Assistant and was also

paid arrears of salary from 1966 upto the date of reinstatement, i.e. for 21 years along with benefits of periodical revisions in the cadre of Junior Assistant. Thereafter, he was continued in service and retired on attaining the age of superannuation on 30.11.1987.

5. This Contempt Case is filed alleging that the directions issued by the Tribunal in R.P.No.1903 of 1986, further reiterated in the order dated 01.03.2011 passed by this Court in W.P.No.16932 of 2011, were not implemented wilfully and deliberately by not extending the benefit of seniority in the category of Upper Division Clerk, now re-designated as Senior Assistant. It is the case of the petitioners that inasmuch as the deceased-public servant was extended all consequential benefits consequent to his reinstatement by the Tribunal and further directions issued by this Court, respondents ought to have granted notional promotion in the category of Upper Division Clerk and should have extended monetary benefits by granting such notional promotion. Thus, it is the case of the petitioners that, to the extent of depriving benefits in the category of Upper Division Clerk (Senior Assistant) to the deceased, respondents have wilfully and deliberately violated the directions of this Court.

6. A detailed counter-affidavit is filed along with supporting material before this Court. While denying the

various allegations made by the petitioners, it is stated that the directions issued by the Tribunal have already been implemented fully in their letter and spirit. With regard to the claim of promotion to the post of Upper Division Clerk, it is stated in the counter-affidavit that the next promotion from the category of Lower Division Clerk (Junior Assistant) is to the category of Upper Division Clerk (Senior Assistant). It is further stated that as per Rule 23(2) of A.P. Ministerial Service Rules, 1966, no members of the service shall be eligible for promotion to the post of Upper Division Clerk in Revenue Department unless and until he has passed the Revenue Tests Part-I, Part-II and Part-III and successfully completed the Revenue Survey Training for a period not less than six weeks and has put in service as Revenue Inspector in charge of a firka for a period not less than one year; as per the Service Register, late Mohd. Yousuf Ali passed Revenue Test Part-II and III and entries to that effect were made in the Service Register in the year 1963 while he was working as Lower Division Clerk in the office of the Revenue Divisional Officer, Medak; with regard to passing of Revenue Test Part-I and Accounts Test Part-I, entries were made in the Service Register only on 14.07.1988 after the date of retirement. There is no entry with regard to completion of Survey Training; thus, it is pleaded that he was not eligible for promotion; the entries made in the Service Register of the individual regarding passing of the tests makes it clear that the present claim of the individual is a result of an afterthought after retiring from the service and after four years after retirement, the deceased Mohd. Yousuf Ali approached this Court seeking promotional benefits; even by considering exemption for his passing of the required tests as per the orders in G.O.Ms.No.225, GAD (Ser.C) Department, dated 18.05.1999, as the deceased did not undergo Revenue Survey Training, which is mandatory for considering for next level promotion; as such, he is not entitled for the benefit of promotion to the post of Upper Division Clerk.

7. The only question which is required to be considered in this case is whether there is any deliberate and wilful violation of the directions of this Court in the order dated 01.03.2011 passed in W.P.No.16932 of 2001.

8. It is true that when the order removing the deceased Mohd. Yousuf Ali was questioned by way of R.P.No.1903 of 1986, before the Tribunal, the said R.P. was allowed with a direction to reinstate him into service in the same rank he was holding at the time of his suspension. It is not in dispute that at the time of suspension, he was working as Lower Division Clerk (Junior Assistant) and in compliance of the directions issued by the Tribunal, he was reinstated as such. In view of the further directions for payment of all consequential benefits, he was also

paid arrears of salary for 21 years. The Tribunal also granted directions for grant of consequential benefits. But, at the same time, it is to be noticed that, after reinstatement as Lower Division Clerk (Junior Assistant) he worked as such for some time and thereafter retired on attaining the age of superannuation. Before retirement, he did not obtain any positive direction for his promotion to the category of Upper Division Clerk (Senior Assistant). When a contempt notice was issued, on the claim of promotion, the District Collector, Medak at Sangareddy considered the matter at length and passed orders vide Proc.No.A3/VS/4508/2009, dated 10.08.20111. With regard to the claim of the deceased Government servants for promotion, the District Collector issued the aforesaid proceedings, relevant portion of which reads as under:

> "With regard to the promotion, as per Annexure-II to Rule 23(2) of A.P.M.S. Rules, 1966 read with G.O.Rt.No.1701, Revenue (Y) Dept., Dt: 1.8.1979, no member in the service shall be eligible for promotion to the post of Upper Divisional Clerk in Revenue Department unless and until he has passed the Revenue Tests Parts-I, II and III and successfully completed the Revenue Survey Training for a period of not less than six weeks and put in a service as Revenue Inspector incharge of a firka for a period of not less than one year. According to Annexure-I to Rule-23(1) of A.P.M.S. Rules, 1966 the L.D.Cs. alone, who have passed Revenue Tests Parts-I, II and III and who have completed Survey Training for a period of not less than (6) weeks is

eligible for being appointed as Revenue Inspector. For the promotion above the cadre of U.D.C. the prescribed tests also have to be passed.

As verified with the service register of Sri Yousuf Ali, Junior Assistant (retired & expired) the entries passing the Revenue Test part-II and III are entered at Page No.7 during tenure as Junior Assistant. The Revenue Test Part-I, Accounts Test for Subordinate officers Part-I and Indian Evidence Act Test (Criminal Judicial Test, Part-II) found entered in August, 1988, i.e., after his date of retirement on 30.11.1997. There is no entry regarding passing of Survey Training Test.

It is clear that, Sri Yousuf Ali, Junior Assistant while he was in service has failed to produce the evidence of passing required departmental tests. He has also not undergone Survey Training. As such, he is not eligible for considering him for further promotion as per Upper Division Clerk and above cadres. Likewise payment of promotional benefits as claimed by him also doesn't arise.

As already mentioned in the aforesaid paras, all the eligible benefits in the cadre of Junior Assistant have been paid to Sri Yousuf Ali, Junior Assistant while he was in service. He is not entitled for further promotions above the cadre of Junior Assistant. There are no benefits left to be granted to Sri Yousuf Ali, Junior Assistant (retired & expired). Hence ordered accordingly."

9. In the absence of any specific direction for promotion, only on the ground that notional promotion benefits were not granted, it cannot be said that respondents have wilfully and deliberately violated the

directions of this Court. It is not in dispute that, after the orders of the Tribunal, he was reinstated as Lower Division Clerk (Junior Assistant) and also paid entire arrears of salary in the category of Lower Division Clerk (Junior Assistant). As the denial of promotion was not the subject matter of challenge before the Tribunal or this Court and in view of the stand of the respondents that the deceased Modh. Yousuf Ali did not fulfil the eligibility criteria as per A.P. Ministerial Service Rules, 1966, for grant of promotion from the category of Lower Division Clerk (Junior Assistant) to the category of Upper Division Clerk (Senior Assistant), only on the ground that notional promotion benefits are not given, it is not possible to accept the claim of the petitioner that there is wilful and deliberate violation of the directions of this Court in the order dated 01.03.2011 passed in W.P.No.16932 of 2001.

10. For the aforesaid reasons, we do not find any merit in this Contempt Case and the same is accordingly dismissed. As a sequel, miscellaneous petitions if any pending stand closed. No order as to costs.

R.SUBHASH REDDY, J

A.SHANKAR NARAYANA, J

December 31, 2013
MRR