

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No. 23634, 21131 AND 24792 OF 2006

COMMON ORDER: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

On 28.06.2011 and 27.06.2011, noticing that even after nearly five years time has elapsed from the date of institution of the Writ Petition, service on the unofficial respondents 4, 5 and 7 in Writ Petition No.23634 of 2006, respondents 1, 3 to 6, 9, 11 to 13, 15 to 17, 20, 23, 29, 31 to 33, 35, 36, 39 to 41, 43 to 45, 49, 51 and 52 in Writ Petition No. 21131 of 2006 and respondents 5 and 9 in Writ Petition No. 24792 of 2006 could not be affected, while granting liberty to take out steps for causing service of notice by special messenger, a default clause has been added that if no such steps are taken within a period of two weeks, the Writ Petitions shall stand dismissed. Accordingly, the Writ Petitions stood dismissed as against the abovesaid respondents in the abovesaid Writ Petitions on 07.09.2011 and 24.08.2011.

All these Writ Petitions are directed against the orders passed by the Andhra Pradesh Administrative Tribunal in O.A.Nos. 9336, 6065 and 5775 of 2002. The applicants before the Tribunal, who are the respondents herein, were recruited as Police Constables and they were sent for undergoing training for a period of two years to the Andhra Pradesh Police Academy. The claim of the applicants before the Tribunal was that since the two-year period of training, which they are required to undergo, counts towards probation, they are also entitled to be paid the annual increment for both the years of training undergone by them.

Fundamental Rule 24, no doubt, sets out that an annual increment admissible, as per the running timescale of pay, shall be released upon completion of satisfactory service of 12 months, unless it has been withheld as a measure of punishment. Going by this

principle, the Tribunal allowed the O.As. and directed annual grade increments to be released during the two-year period of training undergone by the applicants. However, the Andhra Pradesh Police Subordinate Service Rules, which are special rules governing the conditions of service of the members of the said service, and incidentally police constables are members of this service, specifically dealt with as to how the pay of an approved probationer should be regulated. Rule 13 of these special rules contained two separate limbs in clauses (a) and (b). Clause (a) would spell out that an approved probationer on duty shall be granted pay, which would be admissible to him, if he were a civil member of the service in the category in which he was holding the post. Thus, this clause makes it clear that only an approved probationer on duty is liable to be granted the pay which would be admissible to the post occupied by him in the cadre. Then clause (b) proceeds to set out that such an approved probationer shall be entitled to count the period of his probation excluding the period, if any, during which he was undergoing the course of training, for increments in his timescale of pay..... Thus, clause (b) clearly makes out that such part of the period of probation, which does not include the course of training undergone, alone will count for sanction of increments to the pay of the individual. In other words, for the duration of the course of training undergone by the constables, they cannot count the same as rendering satisfactory service to the State to enable them to earn the increment in terms of Fundamental Rule 24.

In view of this special Rule 13 of the Andhra Pradesh Police Subordinate Service Rules, which clearly brought out that for the duration during which a constable was undergoing course of training, he will not be able to earn an increment, the orders passed by the Andhra Pradesh Administrative Tribunal are unsustainable.

Hence, these Writ Petitions stand allowed. The orders passed by the Tribunal stand set aside. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

NOOTY RAMAMOHANA RAO, J

ANIS, J

28th September 2015

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