

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

W.P.Nos.1774, 1827 & 2648 of 2015

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Despite service of notice, the unofficial respondents in these three writ petitions have not entered appearance through counsel. At the request of Sri D.Linga Rao, learned counsel for the petitioner, and the learned Government Pleader for Services, the writ petition is being disposed of at the stage of admission.

In all these three writ petitions, the petitioner herein is the applicant in the O.As. He invoked the jurisdiction of the Tribunal on the ground that, though he had passed the required departmental test, his juniors were promoted as Hostel Welfare Officer Grade-I from the feeder post of Hostel Welfare Officer Grade-II. Before the Tribunal, the respondents herein relied on Rule 4(2) of G.O.Ms.No.176 dated 15.11.1976 to contend that, though the petitioner was senior to the promotees in the post of Hostel Welfare Officer Grade II, the promotees had passed the required departmental test in November 1996, whereas the petitioner had passed the test in February 2008. The promotions were effected on 30.07.2012 with retrospective effect from 18.02.2009.

Sri D.Linga Rao, learned counsel for the petitioner, would contend that, as promotions were effected with effect from 18.02.2009, the amended Rules notified in G.O.Ms.No.45 dated 28.06.2011 has no application; the applicable Rules are the Rules issued in G.O.Ms.No.176 dated 15.11.1976 as amended by G.O.Ms.No.200 dated 18.08.1978; in terms of Rule 4(c) thereof, a candidate appointed to any post in categories I or II, either by direct recruitment or by promotion, shall, unless he has already passed the Accounts test for Subordinate Officer Part-I during the period of his probation shall not be entitled for promotion;

unlike Annexure-II to the Rules, notified in G.O.Ms.No.45 dated 18.06.2011, which requires the person seeking promotion to the post of Hostel Welfare Office Grade-I to have passed the Accounts test for Subordinate Officer part I & II, the earlier Rules, in G.O.Ms.No.200 dated 18.08.1978, required the candidate to pass only part-I of the Accounts test; and, as it is not in dispute that the petitioner had passed the Accounts test for Subordinate Officer part –I much prior to the date of promotion, he, being senior to the respondent-promotees, ought to have been promoted prior to their promotion.

Learned Government Pleader for Services, on the other hand, would submit that, even in terms of the Rules notified in G.O.Ms.No.200 dated 18.08.1978, the requirement of passing part-I of the accounts test for Subordinate Officers is only during the period of probation and not thereafter.

It is wholly unnecessary for us to examine this aspect, as the Rules notified in G.O.Ms.No.200 dated 18.08.1978 were not even brought to the notice of the Tribunal. As the effect of the said Rules, on the entitlement of the petitioner to be promoted to the post of Hostel Welfare Officer Grade-I, is required to be examined by the Tribunal in the first instance, we consider it appropriate to set aside the order under challenge in these writ petitions and remand the O.As to the Tribunal for its consideration afresh, and in accordance with law in the light of the Rules referred to hereinabove.

The writ petitions are, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

10th March 2015.
JSU

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Date: 10.03.2015

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