

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.23093 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.Nagaraju Naguru, learned counsel for the petitioners and Mr.P.Venkateswarlu, Standing counsel for respondents 2 to 4.

The petitioners pray for Mandamus declaring the action of respondents in not promoting the petitioners from the cadre of Record Assistants/Process Servers to the posts of Field Assistants (Category X) without reference to intermediate qualification and as per qualification possessed by the petitioners as per A.P.J.M.S., Rules, 2003, as illegal and arbitrary.

The averments, in brief, are that the petitioners are presently working as Record Assistants and Process Servers. The next channel of promotion to which the petitioners are eligible is Field Assistants in Category X as per G.O.Ms.No.100 dated 08.08.2013. The relevant portion of the instant GO dealing with promotions to Field Assistants reads as follows:

Sl.No.	Category and name of the post	Method of appointment and Appointing authority	Qualifications
xx	xxx	xxx	xxxx
10.	Field Assistant	By direct recruitment or by promotion	Must have passed intermediate conducted by State Board of Intermediate Education its equivalent
xx	xxx	xxx	xxxx

Note No:1: A person who has appeared for the test on the date of occurrence of the vacancy in the higher post and passed the same subsequent thereto shall be treated as qualified on the date of following the date of completion of the test or tests, if as on that there is a vacancy in higher category.

Note 2:- A person appointed to a post in accordance with the rules applicable to him at the time of his appointment shall not be required to acquire higher qualifications prescribed for that post subsequent to his appointment.

Briefly stated, the case of petitioners is that they are entitled for consideration for promotion as Filed Assistants by reference to the educational qualification possessed by them under Rule 8 of the Andhra Pradesh Judicial Ministerial Services (APJMS) Rules, 2003. According to the petitioners, by operation foot note No.2 to the Government Order No.100 dated 08.08.2013, the qualifications required for promotion as intermediate cannot be applied to the petitioners and the petitioners ought to be promoted by considering the qualification under Rule 8 of Rules 2003. In other words, the case of petitioners is that intermediate qualification is required for the candidates appointed after 08.08.2013. Though detailed averments are stated in the affidavit, we do not think it necessary to advert to the other allegations in the writ affidavit. It is suffice to note that the prayer in the writ petition is not founded on correct understanding of G.O.Ms.No.100 dated 08.08.2013 read with foot note No.2. In our view, the petitioners cannot take shelter under foot note No.2, because foot note No.2 is applicable to the employees who are already promoted to a particular category and are holding posts as on the date of issuance of G.O.Ms.No.100 dated 08.08.2013. Therefore, with the change of applicable Rules, the petitioners cannot pray for Mandamus to consider their cases for promotions by reference to replaced GO.

We see no merit in the writ petition and the same is accordingly dismissed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 12.08.2015

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