

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.8039 of 2013

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

The first respondent was appointed on compassionate grounds by proceedings dated 23.08.2004 under Rule 10-A of the Andhra Pradesh State and Subordinate Services Rules, 1996 (for brevity, 'the Rules') as Typist and was posted in the Irrigation Division, Ongole. He was directed to acquire the requisite qualification in Typewriting Telugu Higher Grade, which is required to hold the post of Typist, within a period of two years from the date of joining duty as per G.O.Ms.No.612 dated 30.10.1991. The first respondent acquired Typewriting Telugu Higher Grade qualification in the examination held in August, 2006 and was issued a certificate in this regard on 29.09.2006. Thereafter the first respondent was placed under probation for a period of two years with effect from 25.08.2006. By proceedings dated 15.04.2009 the first respondent was informed that he was deemed to have satisfactorily completed the period of probation by 08.09.2008. On the ground that he had acquired the prescribed qualification within two years from the date of his joining duty and consequently he was entitled to be regularized from the date of his initial appointment, the first respondent invoked the jurisdiction of the Tribunal. By the order under challenge in this Writ Petition, the Tribunal held that, as the appointment order was issued on 18.08.2004 with a condition that he acquired the requisite qualification of Typewriting Telugu Higher Grade within a period of two years, and as he had joined duty on 08.08.2004, he was entitled to have his probation declared from the date of his initial appointment i.e. 23.08.2004 and consequently he was entitled to seniority over and above the sixth respondent who is junior to him.

Learned Government Pleader for Services would draw attention of this Court to the scheme of compassionate appointment in G.O.Ms.No.60 dated 11.02.1997

which in turn refers to the earlier G.O. issued in G.O.Ms.No.612 dated 30.10.1991.

Paragraph No.5 of G.O.Ms.No.60 dated 11.02.1997 reads as under:

“The Government after careful examination hereby direct that the candidates appointed conditionally from 30.10.1991 i.e. from the date of issue of the G.O.Ms.No.612, General Administration (Ser.A) Department, dated 30.10.1991 order the scheme of compassionate appointments to the dependents of deceased Government Employees, with a condition to acquire the minimum Educational/Typewriting qualification, prescribed for the post to which they are appointed within the prescribed periods, shall be temporary to start with and their services shall be regularized duly placing them on probation from the date of their initial appointment, if they acquire the requisite Educational/Typewriting qualifications prescribed for the post, to which they are appointed within the prescribed periods shall be temporary to start with and their services shall be regularized duly placing them on probation from the date of their initial appointment, if they acquire the requisite educational or typewriting qualification prescribed for the post, to which they are appointed within the prescribed periods specified in the G.Os first to fourth read above”.

In terms of the aforesaid paragraph of G.O.Ms.No.60, as the first respondent acquired the qualifications within the prescribed time of two years from the date of his initial appointment, he is entitled to have his services regularized and placed on probation from the date of his initial appointment. The scheme of compassionate appointment in G.O.Ms.No.60 dated 11.02.1997 was subsequently amended and in paragraph No.5 thereof, the word “from the date of initial appointment” was substituted with the words “from the date of acquiring such qualification fully”. The appointment of the first respondent on compassionate grounds is after G.O.Ms.No.151 dated 22.06.2004 was issued and consequently it is the amended scheme of appointment of compassionate which is applicable to him. Under the amended scheme, it is only from the date on which a person appointed on compassionate grounds, acquires the prescribed qualification is he entitled for regularization and being placed on probation. The petitioners herein have rightly declared the first respondent’s probation taking his date of regularization as the date on which he acquired the prescribed qualification.

Sri D.Kasim Saheb, learned counsel for the first respondent, would place before this Court the proceedings issued in G.O.Rt.884, Panchayat Raj and Rural Development dated 13.06.2011 and G.O.Rt.No.1016 dated 24.06.2013 to contend that employees, similarly situated, were regularized from the date of their initial

appointment. G.O.Rt.No.884 specifically records that the employees referred to therein were regularized only from the date on which they acquired and not from the date of their initial appointment. G.O.Ms.No.1016 dated 24.06.2013 relates to employee who was appointed prior to G.O.Ms.No.151 dated 22.06.2004. G.O.Rt.No.1016 takes note of G.O.Ms.No.151 dated 22.06.2004 and gives the benefit of regularization from the date of initial appointment to the employee therein specifically recording that G.O.Ms.No.151 dated 22.06.2004 would only have prospective effect. The Tribunal erred in granting the first respondent the benefit of regularization from the date of his initial appointment contrary to the scheme of compassionate appointment as prescribed in G.Os. referred hereinabove. No employee has a right to claim that he be appointed on compassionate grounds and such appointments are regulated by the scheme prescribed by the Government in this regard. As the scheme of compassionate appointment in the G.Os. referred to above requires the services of the employees, appointed on compassionate grounds, to be regularized only from the date on which they acquired the prescribed qualification, the action of the petitioners in regularizing the services of the first respondent from that date, and not from the date of initial appointment, cannot be said to be illegal. The Tribunal has erred in granting the first respondent the relief which he was not entitled to in terms of the scheme. The order of the Tribunal must, therefore, be and is, accordingly, set aside.

The Writ Petition is allowed. However, in the circumstances, without costs. The miscellaneous petitions pending, if any, shall stand closed.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

04th March, 2015.

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