THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 38069 of 2016

ORDER: ***(Per VRS,J)***

The petitioners, who retired during the period from 2009 to 2011 in the Department of Agriculture in the combined State of Andhra Pradesh, have come up with the above writ petition, seeking the issue of a Writ of Mandamus to direct the respondents to consider their cases for notional promotion as Sub-Assistants with effect from 06.02.1984, with monetary benefits from 29.09.2006, on par with one N. Satyanarayana Reddy, in whose favour a similar order was passed on 19.06.2007.

2. Heard Smt. K.N. Vijaya Lakshmi, learned counsel for the petitioners.

3. It is seen from the affidavit in support of the writ petition that the petitioners were appointed as Field Assistants during the period from 1972 to 1978. To be precise, the petitioners 1 to 5 were appointed on 04.02.1972, 17.02.1972, 14.03.1977, 02.06.1978, and 03.02.1972 respectively.

4. It appears that some Field Assistants, who were similarly placed, filed an application in O.A.No.3855 of 1996 on the file of the Andhra Pradesh Administrative Tribunal, seeking notional promotion of Field Assistants as Sub-Assistants with effect from 06.02.1984. The Tribunal passed orders in their favour on 14.07.2003. The said order of the Tribunal was challenged by the State in a writ petition in W.P.No.5988 of 2004. When the writ petition came up for final hearing, the Government placed on record G.O.Ms.No.224, Agriculture and Cooperation (AGRI.IV) Department, dated 29.09.2016. The operative portion of the said Government Order reads as follows:

> *"A.P.A.E.Os Association has submitted consent letters of AEOs to receive monetary benefits arising on account of re-fixation of pay consequent on notional promotion to be given in pursuance of the APAT orders dt.14.7.2003 in O.A.No.3855/96, and as per Government orders and from the date of issue of Government orders.*
>
> *Government after careful consideration, hereby accord permission to the Commissioner & Director of Agriculture for notional promotion of Field Assistants (AEOs.Gr.III) w.e.f.6.2.1984 as Sub-Assistants (AEO.Gr.II) and allowing monetary benefits only from the date of orders of the Government instead of 6.2.1984 subject to outcome of cases pending before the Hon'ble Courts in the matter."*

5. Based upon the operative portion of the above order, the writ petition was closed by a Bench of this Court, by an order, dated 26.08.2013. The operative portion of the order reads as follows:

> *"In that view of the matter, by placing on record the G.O.Ms.No.224, dated 29.09.2006 and also the consent letters given by the respondents/applicants and observing that the respondents/applicants are entitled to the benefits as per the consent letters given by them, this writ petition is disposed of. No orders as to costs. As a sequel, interim applications pending, if any, shall stand closed."*

6. After coming to know of the aforesaid developments, the petitioners, who retired during the period from 2009 to 2011, approached the Andhra Pradesh Administrative Tribunal in the year 2016 and filed O.A.No.1593 of 2016. The said application is still pending. However, the State of Telangana has withdrawn from the Andhra Pradesh Administrative Tribunal. Therefore, the petitioners have come up with the present writ petition, seeking the very same benefits.

7. Even apparently, the claim of the petitioners is hopelessly barred by time. We do not know, how the Tribunal entertained the application without looking into the question of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

8. As we have indicated earlier, the benefit of notional promotion is claimed by the petitioners with effect from 06.02.1984. Such a claim was made for the first time by one N. Satyanarayana Reddy in an application filed by him before the Office of the Commissioner of

Horticulture in the year 2006. At that time, the petitioners were in service and did not seek such a claim.

9. The claim made by some Field Assistants in 1996 was allowed by the Tribunal in the year 2003 which led the State to file a writ petition in 2004. Even during the said period, the petitioners, except making repeated representations, did not move the Court, but chose to be fence sitters to watch the outcome of the proceedings. After nine long years of the filing of the writ petition, the writ petition of the State was disposed of, with reference to G.O.Ms.No.224, dated 29.09.2006.

10. Even G.O.Ms.No.224 was dated 29.09.2006. From 2006, the petitioners waited till 2016 to approach the Tribunal. Neither the Tribunal nor this Court is entitled to entertain such stale claims. Therefore, the writ petition is devoid of merits. Hence, it is dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

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V. RAMASUBRAMANIAN, J

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U. DURGA PRASAD RAO, J.

7th November, 2016
cbs

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HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

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