

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.22931 of 2016

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for Panchayat Raj (AP).

2. The petitioner was appointed as Field Assistant under the National Rural Employment Guarantee Scheme for V.Savaram Gram Panchayat and Village, Rayavaram Mandal, East Godavari District in the year 2007. While so, his services were terminated by the order of the fourth respondent dated 17.05.2008 on the allegation of misappropriation of funds on the directions of the second respondent without issuing any show cause notice or without conducting any enquiry. Challenging the said order, the petitioner filed W.P.No.28388 of 2011 and this Court disposed of the same on 20.10.2011 with the following directions.

“i) In case, no Field Assistant is appointed for V.Savaram Gram Panchayat of Rayavaram Mandal, as on the date of this order, the impugned order shall stand set aside and the petitioner shall be entitled to continue as Field Assistant prospectively; and

ii) In case, any person is appointed as Field Assistant for the said village, the case of the petitioner shall be considered for appointment as Field Assistant, in next ensuing vacancy in the Mandal.”

3. Thereafter, the petitioner submitted an application to the third respondent with a request to consider his case for appointment to the post of Field Assistant. But, the third respondent issued a memo on 29.11.2011 stating that there is no vacancy of Field Assistant and his case would be considered as and when the vacancy arises. Thereafter, it appears that the incumbent was terminated from service by proceedings dated 07.03.2013 and the

post of Field Assistant has fallen vacant. Then the petitioner submitted an application for appointment, but the third respondent passed an order stating that as per G.O.Ms.No.22, Planning (VII) Department, dated 09.10.2014, the Janmabhoomi Maa Vooru Committee shall send the list as per the criteria fixed therein. One of the criteria under the said order is that the candidate should have worked for minimum 25 days of wage employment during the present or previous financial year. The said condition cannot be fulfilled by the petitioner as his services were terminated on 17.05.2008.

4. The case of the petitioner should have been considered in accordance with the procedure in vogue as on the date of disposing of W.P.No.28388 of 2011 i.e., 20.10.2011. Since G.O.Ms.No.22 dated 09.10.2014 is prospective in nature, the case of the petitioner should not be considered based on the subsequent Government Order. It is also brought to the notice of this Court that Janmabhoomi Maa Vooru Committee also recommended the case of the petitioner for appointment.

5. In the circumstances, this writ petition is allowed at the admission stage by directing respondents 2 to 4 to consider the case of the petitioner for appointment as Field Assistant pursuant to the order of this Court in W.P.No.28388 of 2011 dated 20.10.2011 and the memo of the third respondent dated 29.11.2011 without having regard to G.O.Ms.No.22, Planning (VII) Department, dated 09.10.2014. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 21.07.2016
TJMR