

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.16605 of 2016

Date: 01.07.2016

Between:

P.Subramanyam Pillai

..Petitioner

and

The Permanent Lok Adalat
for Public Utility Services
Chittoor, Rep. by its Chairman,
District court Compound,
Chittoor and another

..Respondents

Counsel for the petitioner: Mr.Gopala Rao
Gandrakota

Counsel for the respondents: SC for APHC

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The petitioner, who is working as Head Clerk
in Permanent Lok Adalat for Public Utility Services,
Chittoor (for short 'the Lok Adalat'), filed this Writ
Petition feeling aggrieved by Order, dated

11.01.2016, of the Principal District Judge, FAC – Chairman, Lok Adalat, wherein he has informed the petitioner that his services as Superintendent/Head Clerk are extended till 31-05-2016 *i.e.*, the date of completion of 65 years of age.

We have heard Mr.Gopal Rao Gandrakota, learned Counsel for the petitioner, and Mr.J.Anil Kumar, learned Standing Counsel for the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, appearing for the respondents.

The petitioner is a retired employee of the Judicial Ministerial Service. In pursuance of Notification, dated 21.01.2011, issued by respondent No.1 calling for applications from the retired Judicial Ministerial Service Employees for appointment as Head Clerk in respondent No.1- Office, the petitioner applied and was appointed as such on contract basis on a consolidated pay of Rs.10,900/- per month *vide* proceeding, dated 02-02-2011. After being continued for nearly five years, the impugned order came to be passed by respondent No.1.

It is the pleaded case of the petitioner that in terms of the guidelines for appointment of the retired Judicial Ministerial Officers and retired Judicial Last Grade Employees, framed by the High Court, he is entitled to be continued in service till completion of 69 years of age and that therefore, the impugned communication is illegal.

At the hearing, the learned Counsel for the petitioner has reiterated the above-mentioned plea of the petitioner.

The learned Standing Counsel appearing for the respondents submitted that notification No.01/2011, dated 21.01.2011, issued by respondent No.1 clearly shows that the appointment is purely temporary and that the selected candidates shall enter into an agreement with the Chairman, Lok Adalat, for a period of one year subject to renewal. He has also invited this Court's attention to Note Nos.5 and 7 of the appointment order, dated 02-02-2011, and submitted that the tenure of the petitioner's appointment was only for one year and that his continuance shall be subject to renewal in future. He has further argued that the guidelines for

appointment of retired Judicial Ministerial Officers and the retired Last Grade Employees enclosed as Annexure II to letter, dated 23-04-2011, addressed by the Registrar (Vigilance) of this Court apply only to the ministerial staff to be appointed in the 140 Special Magistrate Courts sanctioned with the funds of the Government of India and that therefore, the petitioner cannot derive any benefit from out of it.

We have carefully considered the respective submissions of the learned Counsel for the parties.

It is an admitted fact that no specific rules have been framed governing service conditions of the employees of the permanent Lok Adalats, who are re-appointed after their retirement. The very notification referred to above inviting applications clearly shows that the appointment is purely temporary and contractual and that the tenure of the appointee is subject to renewal once in every year. Condition Nos.1 and 2 of the advertisement were incorporated by way of Clause Nos.5 and 7 in the appointment order of the petitioner which read as under:

“5. The tenure of appointment will be for

one year and further period will be subject to renewal in future.

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7. The appointment of the individual is purely on temporary and contract basis.”

In the absence of any statutory provision or executive order, prescribing the age of retirement or minimum tenure for an employee, the terms mentioned in the advertisement and also the appointment order govern his right. A proper analysis of the advertisement and the appointment order of the petitioner would leave us in no doubt that his tenure is purely temporary under a contract and that respondent No.1 is free not to renew the contract appointment of the petitioner beyond one year period.

Reliance on the guidelines for appointment of the retired Judicial Ministerial Officers and retired Last Grade Employees enclosed as Annexure II to letter, dated 23-04-2011, of the Registrar (Vigilance), by the petitioner is wholly misplaced, as the said guidelines are applicable to the ministerial staff to be appointed in the 140 Special Magistrate Courts sanctioned under the 13th Finance Commission by

the Government of India. It is clear from the subject part of letter, dated 23.04.2011, of the Registrar (Vigilance) which reads as under:

“13th Finance Commission – Allocation of Funds by the Government of India – Follow up Action – Proposals for establishment of 140 Special Magistrate Courts – Orders issued by the Government – Calling for the Interviews scheduled to be held on 27-04-2011 from 2.00 p.m., onwards at 6th Floor of the seven storied building situated in High Court of A.P., Hyderabad – Intimation – Reg.”

Therefore, the petitioner is not entitled to rely upon Clause 4 of the guidelines under which the retired employees below the age of 69 years are made eligible to be appointed in the said Special Magistrate Courts.

A perusal of the impugned order shows that the District Judge has misread the advertisement and formed a wrong opinion that since the petitioner will be completing 65 years on 31-05-2016, he shall retire. He appears to have formed this erroneous opinion based on the age criterion mentioned in the notification, which says that a retired Junior Assistant/Typist should be below 65 years of age.

This stipulation, in our understanding, is to the effect that any person, who has not completed the age of 65 years, is eligible for being considered and appointed and he could be continued beyond 65 years also on an year to year basis, if the appointing authority is satisfied with his services. At any point of time, if the appointing authority feels that the services of the employee shall be put an end to, it shall be free to do so on the expiry of the contract tenure.

On the analysis as above, the Writ Petition is disposed of with the direction to respondent No.1 to consider whether to continue the petitioner as Head Clerk irrespective of the fact that he has completed the age of 65 years based on his performance. If respondent No.1 feels satisfied with the petitioner's performance, he shall be free to extend the latter's services further and this process may be repeated year after year till respondent No.1 feels that the services of the petitioner are no longer required.

As a sequel to disposal of the Writ Petition, WPMP.No.20478 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 1st July, 2016
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