

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD**

WRIT PETITION Nos.32990 AND 35066 OF 2016

COMMON ORDER: (*Per Hon'ble Sri Justice V.Ramasubramanian*)

A notification for recruitment of Civil Judges (Junior Division) was issued by the High Court on 01.02.2014. A written examination was conducted on 25.10.2015. The petitioner, who belongs to the Scheduled Caste, became successful in the written examination, as she had secured 38.50 marks out of 80 marks. She was invited for oral interview held on 16.12.2015. Eventually, the results were published on 06.01.2016 declaring her to have secured 44.10 marks and including her name in the selected list of candidates for appointment as Civil Judge (Junior Division).

2. But unfortunately, for the writ petitioner, another candidate by name Ms.Sura Sumalatha, who got 44.00 marks, and who also belonged to the Scheduled Caste, came up with a writ petition in W.P.No.19433 of 2016 contending that her answer to question No.5(b) of Part-B (criminal paper) was not evaluated at all. Finding her averment to be true, this Bench passed an order on 01.09.2016, directing the Registry to evaluate the answer of Ms.Sura Sumalatha to question No.5(b) of Part-B.

3. Pursuant to the said order, the answer paper of Ms.Sura Sumalatha was evaluated and she was found to have secured more marks than the writ petitioner herein. Therefore, the Registry issued a communication dated 09.09.2016 including the name of Ms.Sura Sumalatha in the place of the writ petitioner herein as a

candidate provisionally selected for appointment under the quota reserved for SC (Women).

4. Immediately, thereafter the petitioner made an application on 12.09.2016 for furnishing copies of her answer sheets. After getting the copies of her answer sheets, the petitioner made a representation dated 19.09.2016 pointing out that her answer to question No.4(b) had been wrongly valued and a zero mark awarded. But the said representation was rejected by the Registry by an order dated 19.09.2016. The petitioner's second representation seeking revaluation was rejected by yet another order dated 20.09.2016 passed by the Registry.

5. Therefore, challenging the cancellation of the inclusion of her name in the provisional list by the proceedings dated 09.09.2016, the rejection of her representation by the proceedings dated 19.09.2016 and the rejection of her request for revaluation by the proceedings dated 20.09.2016, the petitioner came up with a writ petition in W.P.No.32990 of 2016.

6. In the meantime, the Government issued an order in G.O.Ms.No.164, Law (LA&J-Home-Courts.A) Department, dated 27.09.2016, appointing the selected candidates to the post of Civil Judges (Junior Division). Therefore, challenging the said GO, the petitioner has come up with the second writ petition i.e., W.P.No.35066 of 2016.

7. Heard Ms.K.Udaya Sri, learned counsel, appearing for the petitioner, Smt.B.Vijaya Lakshmi, learned counsel, takes notice for

the Registry and Mr.K.Pavan Kumar, learned counsel, takes notice for third respondent in W.P.No.35066 of 2016.

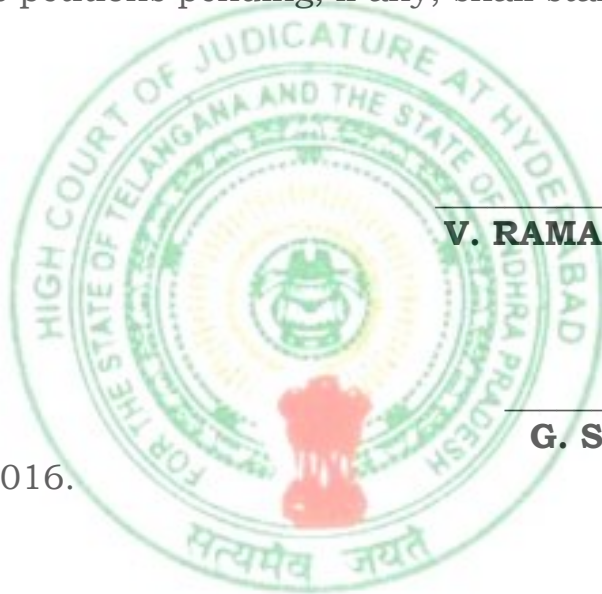
8. The main grievance of the petitioner is that she had answered question No.4(b) relating to the distinction between “a tenant at sufferance” and “a tenant holding over”, exactly in accordance with the text and the case law on the point and that the examiner had wrongly indicated zero in numeral as against the said question. Therefore, on the basis of the decision of the Supreme Court explaining the distinction between these two expressions and on the basis of what is contained in Mullah’s Transfer of Property Act, it is contended that the valuation was completely arbitrary.

9. But, unfortunately there is no provision for revaluation of an answer sheet. A case where an answer was not at all valued stands on a different footing from a case where an answer was wrongly valued. Since the case of Ms.Sura Sumalatha fell under the first category, her writ petition was allowed. Even as per the representation of the petitioner dated 12.09.2016, her case falls under the second category i.e., a case of wrongful valuation. Since there is no provision for revaluation, it is not possible to grant any relief to the petitioner.

10. As a matter of fact, in respect of the very same question No.4(b), yet another writ petition was filed in W.P.No.22132 of 2016, but the same was dismissed by this Bench by an order dated 01.09.2016.

11. It is also pertinent to note that the petitioner chose to apply under the Right to Information Act for copies of her answer sheets, only after the order dated 09.09.2016 was passed, cancelling her provisional selection. She had not chosen to take a copy of her answer sheet under the Right to Information Act beforehand. Perhaps she was lulled into a sense of false security because of her selection. Nevertheless, the time at which she obtained the copy of the answer sheet is also important to be taken note of.

12. Therefore, the writ petitions are dismissed. No costs. Miscellaneous petitions pending, if any, shall stand closed.



V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 20.10.2016.
TJMR