

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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AND

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THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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WRIT PETITION No. 92 of 2016

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ORDER: (per Hon'ble Sri Justice G. Chandraiah)

In this writ petition filed by the State, challenge is to the orders dated 27.07.2015 passed by the Andhra Pradesh Administrative Tribunal in O.A.No.3977 of 2014.

2. Facts of the case, in brief, are as under:

The applicant is a Junior Assistant in the office of the 4th respondent. His Date of Birth is 04.08.1975. He submitted an application on 21.06.2010 to the 4th respondent requesting to appoint him by transfer to the post of Forest Section Officer under Ministerial Quota. The 4th respondent forwarded his representation to the 3rd respondent with his report vide proceedings dated 15.11.2012. At that relevant point of time, the applicant's age was 34 years 10 months and 26 days. His request was not considered due to non-availability of vacancy under conversion quota and for not completing the minimum service of three years in the category of Junior Assistant. Thereafter, again he made a representation on 04.08.2012 seeking appointment by transfer to the category of Forest Section Officer as per Rule 3, Class-A, Category-2 and Note 1(b) of G.O.Ms.No.88 Environment, Forests, Science & Technology (For.IV) Department, dated 19.07.2000. As the date of birth of the applicant was 04.08.1975 and as on 01.07.2012 his age was about 36 years 10 years 26 months, he became over-aged for appointment by transfer to the post of Forest Section Officer.

It was contended by the applicant before the Tribunal that as

per the report of the 4th respondent, the sanctioned strength of Forest Section Officers in the Adilabad Division is 36, out of which 5 posts have to be filled by conversion from Ministerial staff. As against five posts, three persons are working and two posts are vacant during the panel year 2011-12 and 2012-13. The 4th respondent in his report submitted that the applicant is eligible and requested to relax the age of the applicant for considering his case to the post of Forest Section Officer as the applicant is fully eligible for appointment but for crossing age of 35 years. The 3rd respondent submitted his report to the 2nd respondent in his proceedings dated 17.11.2012 recommending the case of the applicant for relaxation of Rule 5(ii) of the said rules in favour of the applicant for appointment by transfer to the post of Forest Section Officer. The 1st respondent through Memo No.6472/For.V(2)/2012-3 dated 10.4.2014 rejected the case of the applicant stating that the request of the applicant for appointment to the post of Forest Section Officer in relaxation of age is not feasible for consideration. It was also the contention of the applicant that the 1st respondent issued G.O.Ms.No.38, EFS & T (For.V) Department, dated 16.05.2003, G.O.Ms.No.104, EFS & T (For.V) Department, dated 10.09.2004, G.O.Ms.No.35, EFS & T (For.V) Department, dated 24.03.2007, G.O.Ms.No.169, EFS & T (For.V) Department, dated 24.12.2008, G.O.Ms.No.56, EFS & T (For.V) Department, dated 29.07.2009 to appoint the individuals therein under Ministerial quota relaxing the age limit as prescribed under the rules.

The respondents filed counter stating that as per Rule 5 Class-A(2) of the A.P.Forest Subordinate Services Rules 2000 issued in G.O.Ms.No.88, EF & T (For.IV) Department, dated 19.07.2000, one must have not crossed 35 years of age and must be having three years of service in the category to which he belongs. The case of the applicant was not considered due to non-completion of minimum service of three years in the category of Junior Assistant. Thereafter,

the applicant crossed 35 years of age as on 01.07.2012 and hence his case was not considered.

The Tribunal, in the orders impugned, has observed that the respondent authorities have nowhere mentioned in their counter as to why the case of the applicant was not considered for appointment as Forest Section Officer by relaxing the age as per aforesaid G.Os., and also as to what is the distinction between the applicant and such of those candidates whose candidature was considered by relaxing the age as per the aforesaid G.Os. The Tribunal ultimately set aside the Memo No.6472/For.V(2)/2012-3 dated 10.4.2014 and directed the respondents to consider the case of the applicant for granting relaxation of age taking into consideration the aforesaid G.Os. Questioning the same, the present writ petition is filed.

3. Heard learned Government Pleader for the petitioners. No representation for the 1st respondent/applicant.

4. Having considered the submissions of the learned Government Pleader and on a perusal of the impugned orders of the Tribunal, it is clear that the 1st respondent/applicant has requested the age relaxation as per the aforesaid G.Os., applicable and on the ground of parity with the other candidates in whose case age relaxation was granted by the authorities. Inasmuch as the Tribunal, after consideration of various aspects, while setting aside the Memo No.6472/For.V(2)/2012-3 dated 10.4.2014, has only directed the respondent authorities to consider the case of the applicant as per G.O.Ms.No.38, EFS & T (For.V) Department, dated 16.05.2003, G.O.Ms.No.104, EFS & T (For.V) Department, dated 10.09.2004, G.O.Ms.No.35, EFS & T (For.V) Department, dated 24.03.2007, G.O.Ms.No.169, EFS & T (For.V) Department, dated 24.12.2008, G.O.Ms.No.56, EFS & T (For.V) Department, dated 29.07.2009, we do not find any illegality or infirmity

in the orders of the Tribunal.

5. The writ petition is, accordingly, dismissed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

05th January, 2016
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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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