

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.4766 of 2016

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18.02.2016

Between:

P.Seshaiah and another

..Petitioners

And

The Director General of Prosecution,
O/o. Director General of Police, State of Andhra Pradesh,
Hyderabad and others

..Respondents

Counsel for the petitioners: Mr.P.V.Ramana

Counsel for respondent Nos.1 and 2: Government Pleader for Services
(AP)

Counsel for respondent Nos.3 to 11: --

The Court made the following:

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ORDER: (Per CVNR,J)

The petitioners, who are working as Additional Public Prosecutors Grade I, filed this writ petition, challenging the order, dated 29.04.2011, in O.A.No.875 of 2010 with V.M.A.No.493 of 2010 of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal').

2. At the outset, we are constrained to observe that the writ petition filed nearly five years after passing of the impugned order by the Tribunal suffers from uncondonable laches. Therefore, the writ petition is liable to be dismissed on this ground alone. However, even on merits, the writ petition is liable to be dismissed, for, the plea of the petitioners that the training period of respondent Nos.3 to 10, who are direct recruit Additional Public Prosecutors, shall not be counted for the purpose of seniority is contrary to the plain language of Rule 8(c)(iv) of the Andhra Pradesh State Prosecution Service Rules, 1992 (for short 'the Rules'). The aforesaid Rule reads as under:

"8. Training:-

(a).....

(b).....

(c) Every person appointed by direct recruitment as Asst. Public Prosecutor or Addl. Public Prosecutor Gr.II, shall before commencement of training, execute an Agreement bond that he shall serve the department for a period of not less than three years after the completion of training referred to in sub-rule (b).

He will be liable to refund to the Government the pay and allowances and any other remuneration received by him in addition to the amount spent by the Government on his training:-

(i).....

(ii).....

(iii).....

(iv) The period of training shall count for purpose of Probation, Increments, leave and Pension.

....."

3. The learned counsel for the petitioners submitted that since the phrase 'seniority' is not found in Sub-Rule (iv) of Rule 8, as reproduced above, the private respondents are not entitled for inclusion of training

period for the purpose of reckoning their seniority. We find no merit in this submission at all. Even if the word 'seniority' is not mentioned in the above Sub-Rule, when training period is counted for probation, it is implied therefrom, the same is counted for seniority as well. Besides probation, the said Rule has also included the aspects such as increments, leave and pension. Further Clause (v) of Rule 8(c) of the Rules envisages that a direct recruit shall be eligible during the period of training, for the initial pay of the post with usual allowances admissible at the place of training. A conjoint reading of Clauses (iv) and (v) of Rules 8(c) of the Rules would leave us, in no doubt, that the training period shall be reckoned for all the purposes including the seniority as well and the Tribunal has rightly rejected the plea of the petitioners by dismissing the aforesaid O.A. Hence, we do not find any illegality committed by the Tribunal.

4. The Writ Petition is, accordingly, dismissed.

5. As a sequel to dismissal of the writ petition, W.P.M.P.Nos.6099 and 6100 of 2016 filed by the petitioners for interim reliefs shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

18th February, 2016

GHN