

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

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

WRIT PETITION No.17819 of 2016

**-
16.06.2016**

Between:

Dr.M.Gangadhar and others

..Petitioners

And

The State of Telangana,
represented by its Principal Secretary,
Animal Husbandry Department,
Hyderabad and others

..Respondents

Counsel for the petitioners: Mr.D.Linga Rao

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

Counsel for respondent Nos.3 and 4: --

The Court made the following:

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

The petitioners, who are third parties to O.A.No.6527 of 2015, filed this writ petition feeling aggrieved by the order, dated 27.11.2015, of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal') – respondent No.4 passed in the said O.A. and another O.A. viz., O.A.No.6533 of 2015.

2. The petitioners, who are working as Veterinary Assistant Surgeons, felt aggrieved by the aforementioned order of the Tribunal in allowing O.A.No.6527 of 2015 filed by respondent No.3 and directing the official respondents to reckon the commencement of probation of respondent No.3 from the date of his original appointment/date of regularization for the purpose of his seniority in the post of Veterinary Assistant Surgeon cadre in his unit of appointment duly following the procedure.

The petitioners pleaded that while disposing of the said O.A., the Tribunal has not referred to its own well considered judgment *vide* common order, dated 28.07.2008, in O.A.No.557 of 2007 and batch, wherein following the ratio laid down in the judgments of the Apex Court in **K.Haridas vs. High Court of Kerala**^[1] and **S.P.Badrinath vs. Government of A.P.**^[2], the Tribunal held that the employees, who passed the departmental tests within two years from the date of joining and who failed to do so cannot constitute the same class, that the latter category necessarily belongs to a different class and that the date of passing the departmental tests would be the date for the purpose of reckoning their seniority vis-à-vis the other employees. The learned counsel for the petitioners argued that the said common order, dated 28.07.2008, of the Tribunal in O.A.No.557 of 2007 and batch was affirmed by the Division Bench of this Court *vide* its order, dated 18.12.2008, in W.P.No.22978 of 2008 and batch, including W.P.No.17340 of 2008 which arises out of O.A.No.557 of 2007.

3. In the manner we are proposing to dispose of this writ petition, it

is not appropriate for us to express any opinion on the merits of the case. Inasmuch as the petitioners, who were not parties to O.A.No.6527 of 2015, claim that their seniority will be affected by the impugned judgment of the Tribunal, it is appropriate for them to file a review petition in O.A.No.6527 of 2015, before the Tribunal, by pointing out the aforementioned judgments cited before us and by raising all the legally permissible grounds, before availing the remedy of judicial review before this Court.

4. Since as the petitioners were not parties and they pleaded that till recently they were not aware of the impugned judgment, we are of the opinion that ends of justice would be met if they are permitted to file review within a period of two weeks from today. In such event, the Tribunal shall entertain and adjudicate the same on merits, without referring to the limitation prescribed for filing the review. For a period of one month, the operation of the impugned judgment, dated 27.11.2015, in O.A.No.6527 of 2015 is suspended to enable the petitioners to claim appropriate interim relief before the Tribunal pending the review petition.

5. Subject to the above directions, the Writ Petition is disposed of.

6. As a sequel to disposal of the Writ Petition, W.P.M.P.No.21914 of 2016 filed by the petitioners for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

16th June, 2016

GHN

[\[1\]](#) 2001 AIR SCW 2312

[\[2\]](#) (2003) 8 SCC 1