

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

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.10930 of 2016

Date: 07.04.2016

Between:

The Principal Government Institute of
Printing Technology, Secunderabad and 2 others

.. Petitioners

and

P.Satyanarayana and another

.. Respondents

**Counsel for the petitioners :
Services (TS)**

GP for

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The Court made the following:

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

This Writ Petition is filed for a Certiorari to
quash Order, dated 10-02-2015, in OA.No.6051 of
2012 on the file of the Andhra Pradesh
Administrative Tribunal, Hyderabad (for short 'the
Tribunal').

Respondent No.1 was appointed as a Menial on consolidated pay by petitioner No.1 on 25-03-1985. Petitioner No.1 absorbed respondent No.1 in the post of Attender in the A.P.Last Grade Service on 11-03-1991 and fixed his pay scale as per 1986 Revised Pay Scales. As the treasury has not honoured the bills for payment of salary to respondent No.1, his case was referred to the State Government. The State Government has directed regularization of the services of respondent No.1 with effect from 26-02-2007 only. Therefore, respondent No.1 approached the State Government for regularizing his services with effect from 04-04-1990. By Memo, dated 29.02.2012, petitioner No.3 has rejected the claim of respondent No.1. Assailing the said memo and seeking a direction to the petitioners to regularize his services in the cadre of Attender from the date of absorption *i.e.*, 04.04.1990, respondent No.1 filed OA.No.6051 of 2012 before the Tribunal. After considering the averments in the counter-affidavit filed on behalf of the petitioners, the Tribunal has allowed the OA with the direction that the services of respondent No.1 shall be regularized from 25-11-1993 with all notional consequential benefits and that such benefits shall be confined only to the pension/retirement benefits. Feeling aggrieved by this order, the petitioner has filed this Writ Petition.

The only ground on which the order of the

Tribunal is questioned in this Writ Petition is that as per G.O.Ms.No.212 F & P, dated 22-04-1994, a person is entitled to be absorbed against a clear vacancy; that it is evident from letter, dated 27.09.2006, of petitioner No.1 addressed to the Director of Technical Education, Government of Andhra Pradesh, that two Sweeper posts fell vacant on 01-08-2005 and 14-09-2006 respectively; and that therefore, the direction issued by the Tribunal to absorb respondent No.1 with effect from 25.11.1993 is incorrect.

We have perused the averments of the petitioners in the counter-affidavit filed in OA.No.6051 of 2012 and on such perusal, we do not find a specific averment that no vacancy was available as on 25.11.1993. Obviously, in the absence of such averment, the Tribunal has observed that "It is not the case of the respondents that there was no vacancy by 25-11-1993."

In our opinion, as the petitioners failed to specifically plead before it that no vacancy was in existence as on 25.11.1993, the Tribunal has made the above-mentioned observation and granted relief to respondent No.1 on the premise that a vacancy was existing as on 25-11-1993. Therefore, we cannot find fault with the order of the Tribunal. If the petitioners feel that the vacancy as a fact did not exist and by inadvertence, this fact was not brought

to the notice of the Tribunal, it will be a fit case for them to file a review petition before the Tribunal. Accordingly, the petitioners are permitted to file a review petition before the Tribunal within one month from today. If such review petition is filed, the Tribunal shall entertain the same without raising any objection as to the limitation and decide the same on merits after notice to respondent No.1.

Subject to the above observations, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.13778 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(M.S.K.Jaiswal, J)

Dt: 7th April, 2016
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