

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI**

WRIT PETITION NO.31653 OF 2016

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

The State of Telangana and officials of its Education Department are before this Court aggrieved by the order dated 01.05.2015 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.9128 of 2012. The said O.A. was filed by respondents 1 to 12 herein seeking a direction to the authorities to consider their candidature for the left over vacancies and to issue them appointment orders as per their merit ranking. Appointment sought was to the posts of Secondary Grade Teacher earmarked for Schedule Tribe candidates in Khammam District *vide* Notification dated 06.12.2008. The admitted fact is that the candidates originally selected to fill these vacancies **opted** for the higher posts of School Assistants, for which they were also selected. Respondents 1 to 12 herein, being the candidates next in the merit ranking, therefore sought appointment to the said vacancies. By the order under challenge, the Tribunal opined that if a candidate is selected for two hierarchical posts, he would have to be considered for the higher post and his selection to the lower post would automatically stand cancelled, whereby the next meritorious candidate would be entitled to aspire therefor. The Tribunal therefore directed the authorities to consider the cases of respondents 1 to 12 herein for appointment to the posts of Secondary Grade Teacher in the unfilled vacancies if they were otherwise suitable and came up for selection on their own merit. Appropriate orders were directed to be passed within a time frame.

Sri P.Ravi Shanker, learned counsel for respondents 1 to 4, placed reliance on the judgment dated 07.04.2012 of this Court in W.P.No.21647 of 2011 and batch. That was a case dealing with recruitment to the higher post of Hindi Pandit Grade-I and the lower post of Hindi Pandit Grade-II. A similar plea was advanced before this Court by the authorities that in the event a candidate selected for both posts joined in the higher post, his redundant selection to the lower post would result in an unfilled vacancy which can only be carried forward. However, this Court did not accept this plea and held that once the candidate selected for a higher post opted to join it, the vacancy in the lower post for which he was also selected cannot be treated as a carry forward vacancy and confirmed the direction of the Tribunal that the next meritorious candidate should be appointed to such a vacancy.

In the present case, those who were selected for both posts, viz., School Assistant and Secondary Grade Teacher, opted to join the higher post of School Assistant. That being so, their selection to the lower post would automatically stand nullified. It is an admitted fact that they were never actually appointed to the lower post of Secondary Grade Teacher. In that view of the matter, we find no merit in this writ petition which is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No costs.

SANJAY KUMAR, J

N.BALAYOGI, J

1st FEBRUARY, 2017

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