

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON' BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.35527 of 2016

ORDER: (*per Hon'ble Sri Justice V. Ramasubramanian*)

The petitioner has come up with the above writ petition seeking a direction to the respondents to regularize her services as Masalchi.

2. Heard Mr. Srinivas Bodduluri, learned counsel for the petitioner and Mr. Abhinandan Kumar Shavili, learned counsel for the respondents.

3. Admittedly, the petitioner was appointed as part-time Masalchi on 22.04.1987 in the court of the Senior Civil Judge, Pithapuram, East Godavari District. Subsequently, by proceedings dated 27.04.2000, the petitioner was made a Full-Time Masalchi.

4. It appears that in view of the prohibition imposed under A.P. Act No.22 of 1994, no appointments of contingent staff could be made. Therefore, the District Judges were permitted to engage sweepers occasionally and pay wages for those they were engaged. When people so appointed, started craving for regularization and came up with WP No.1627 of 1998, claiming the benefit of G.O.Ms.No.112, Finance & Planning Department, dated 23.10.1997, this court rejected the claim, on the ground that they did not satisfy the requirements as on 25.11.1993. But this court also directed the District Judges to appoint part-time Masalachis working in the units as full-time Masalchis. It is in pursuance of the said direction that the petitioner was posted as full time Masalchi on 27.04.2000. By a latter order in G.O.Ms.No.212, Finance & Planning Department, dated 22.04.1994, the Government decided to regularize the services of those who were working

continuously for a minimum period of five years and who were continuing on 25.11.1993. Following the same, the High court issued a Circular dated 06.01.2004 directing the Unit Heads to consider the cases of all the qualified full time and part time Masalchis, who have put in more than 15/10/5 years of service in their respective units for recruitment to the posts of Attenders, subject to availability of Roster points. The Circular dated 06.01.2004 reads as follows:

“ HIGH COURT OF ANDYHRA PRADESH :: HYDERABAD

Roc.No.2708/ 2003-D1(5)

Dated 06.01.2004

CIRCULAR

Sub: Part Time and Full Time Masalchies –Recruitment as Attenders on regular basis –Certain instructions to all the Unit Heads –issued.

Ref: High Court’s Circular Roc.No.2708/ 2003-D1(5), Dt.28.08.2003.

The attention of all the Unit Heads is invited to the High Court’s Circular cited, and they are directed to consider the cases of all the qualified (other than age) Full Time and Part Tim3 Masalchies who have put in more than 15/10/5 years of service in their respective units for recruitment to the posts of attenders, subject to availability of Roster Points by giving preference to the senior most amongst taking into consideration the length of their service.

The Unit Heads are further informed that with regard to exemption of age, recommendations have to be made to the High Court for relaxation of age for those who are otherwise qualified, and the high Court in turn would make a general recommendation to the Government for relaxation of age.

The instructions issued in the High Court’s Circular Roc.No.2708/ 2003 0 D1(5), dated 28.08.2003, not to fill up the vacancies of all class IV until further directions of the High Court, are hereby lifted.

Registrar General”

5. It was followed by a set of instructions issued under Circular dated 26.07.2004. These instructions read as follows:

“ HIGH COURT OF ANDYHRA PRADESH :: HYDERABAD

Roc.No.2708/ 2003-D1(5)

Dated 26.07.2004

CIRCULAR

Sub: Part Time and Full Time Masalchies –Recruitment as Attenders on regular basis –Circular issued to all the unit heads –Seeking instructions on certain points by some of the District Judges –Further instructions –issued

Ref: High Court’s Circular Roc.No.2708/ 2003-D1(5), Dated 06.01.2004.

The attention of all the Unit Heads is invited to the High Court’s Circular cited. The following instructions are issued with regard to certain clarifications sought for by some of the District Judges to consider the cases of all the qualified (other than age)

Full time and Part Time Masalchies for recruitment to the posts of attenders:-

1) In view of the prohibition imposed under A.P. Act No.2 of 1994, no fresh appointments of contingent staff can be made; but, in order to keep the premises clean, the District Judges can engage sweepers occasionally and pay wages for the days they are engaged, by meeting the expenditure from the office expenses. In case where the entire work can be given on contract basis at reasonable rate, for each court complex that also can be explored.

2) The qualified part time and full time Masalchies, who are in service can be directly appointed to the post of attender, subject to availability of Roster points without issuing any notification for selection for those posts.

The appointment of Full time and Part Time Masalchies in regular vacancies as per the High Court's Circular Poc.No.2708/ 03-D1(5) dated 06.01.2004 is only one time arrangement and would be applicable only to the existing incumbents as on the date of circular.

3) If vacancies are available for all the qualified Masalchies as per the instructions issued by the High Court all of them can be appointed. While appointments are made, the senior most among the persons that have put in required service, have to be given first preference and so on.

4) There is no possibility of converting the full time Masalchies as Attenders.

5) To the extent of availability of vacancies in particular Roaster Point, fully qualified Masalchies have to be appointed. In case of requirement of relaxation of age, they have to address the High Court, to address the Government for relaxation.

6) If the qualified Masalchies are found to be suitable, they can be considered for appointment against the open vacancies, in case no vacancy is in their Roster points.

7) The District Judges have to satisfy themselves with regard to the qualifications of the candidates and the genuineness of the certificates submitted by them, as it is not possible for the High Court to decide the same.

7) The Educational qualifications cannot be relaxed.

All the Unit Heads are requested to send a report to the High Court as to the action if any taken in the matter of appointment of full time and part time Masalchies to the posts of attenders in their units pursuant to the instructions issued in this regard.

Registrar General"

6. The only difficulty for the petitioner is that she passed 7th standard in April, 2004 and not as on 06.01.2004. But the Circular dated 06.01.2004 does not stipulate that the qualification would be reckoned with reference to the said date. By the time the next set of instructions were issued on 26.07.2004, the petitioner already got qualified.

7. Therefore, the writ petition is allowed directing the 3rd respondent to consider the case of the petitioner in the light of the Circular dated 26.07.2004 issued by the High Court and take appropriate

action in accordance with law, within a period of eight weeks. No order as to costs. Pending miscellaneous petitions, if any, in this writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 30.01.2017
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HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON' BLE MS. JUSTICE J. UMA DEVI

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(per Hon'ble Sri Justice V. Ramasubramanian)



Date: 30.01.2017

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