

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION Nos. 34619 of 2011 and 41154 of 2016

COMMON ORDER: (*Per VRS,J*)

Persons working in the category of Deputy Section Officers in the High Court sought up-gradation of the post as Section Officers and their request was considered favourably by the then Hon'ble Chief Justice. A recommendation was, accordingly, made to the Government to consider the up-gradation of 24 posts of Deputy Section Officers as that of Section Officers.

2. However, the said proposal was negatived by the Government by proceedings, dated 22.07.1993. But, the Registry sent another proposal and the same was also rejected under G.O.Rt.No.1221, Law (L.A.&J.Courts C1) Department, dated 05.08.2002.

3. The order of rejection, dated 05.08.2002, came to be challenged in a writ petition in W.P.No.18415 of 2002. The said writ petition was allowed by a Division Bench of this Court, by an order, dated 11.06.2008, holding that the Government cannot reject the recommendation made by the Hon'ble Chief Justice under Article 229 of the Constitution.

4. In implementation of the decision of the Division Bench of this Court, dated 11.06.2008, the Government passed G.O.Ms.No.69, Home (Courts.C) Department, dated 08.07.2009, upgrading 24 posts of Deputy Section Officers as Section Officers.

5. After the Government orders were passed, the Deputy Section Officers working in the Registry made representations for implementation of the benefits of the said Government Order with retrospective effect from 06.07.1992, the date on which, the then Hon'ble Chief Justice sent a proposal. But, the Hon'ble Chief Justice recorded on 19.09.2009 that the Government Order cannot be given retrospective effect.

6. Challenging the Office Memorandum, dated 29.08.2011, communicating the decision of the Hon'ble Chief Justice not to give retrospective effect to G.O.Ms.No.69, dated 08.07.2009, a set of Officers came up with the first writ petition in W.P.No.34619 of 2011. The prayer in the said writ petition is for setting aside the decision of the Hon'ble Chief Justice, refusing to give retrospective effect to the Government Order and for a consequential direction to the respondents to implement the benefits of the Government Order with retrospective effect from 06.07.1992.

7. As a consequence of the petitioners demanding more and more, the very implementation of the Government Order was put in cold storage. Therefore, the petitioners got nothing out of the Government Order and made another representation, dated 10.02.2016. But, on this representation, a decision was taken not to take any further action, in view of the pendency of the writ petition, W.P.No.34619 of 2011. Challenging the said decision communicated to them on 02.09.2016, the Service Association came up with the second writ petition in W.P.No.41154 of 2016.

8. Heard Mr. Challa Gunaranjan, learned counsel for the petitioners in the first writ petition, Mr. Sarang J. Afzulpurkar, learned counsel for the petitioner in the second writ petition, Mr. J. Anil Kumar, learned standing counsel for the High Court in the first writ petition, Mr. P. Ravi Prasad, learned standing counsel for the High Court in the second writ petition, the learned Government Pleader for services appearing on behalf of the State of Telangana, and the learned Advocate General appearing on behalf of the State of Andhra Pradesh.

9. From out of the facts that we have narrated above, two issues arise for consideration, namely, (a) whether G.O.Ms.No.69,

dated 08.07.2009, has to be implemented, and (b) if so, the date from which, the said Government Order has to be implemented.

10. Insofar as the first question is concerned, the answer is not too difficult to be found out. The Government Order was passed, pursuant to the directions issued by the Division Bench of this Court. When a Government Order was passed in implementation of a judicial order, the question whether it could be implemented or not, does not arise at all for consideration. Therefore, our answer to the first question is obvious, namely, that G.O.Ms.No.69, dated 08.07.2009, has to be implemented.

11. Insofar as the second question is concerned, the claim of the petitioners is that the Government Order should be implemented with effect from 06.07.1992. But, this claim is patently untenable. A careful look at the judgment rendered by this Court on 11.06.2008 in W.P.No.18415 of 2002 would show that the prayer made in the said writ petition was to set aside the Government Order refusing to accept the recommendation of the Hon'ble Chief Justice for up-gradation and for a consequential direction to sanction the up-gradation and to pay the arrears with effect from 06.07.1992. But, the ultimate relief granted by the Division Bench of this Court was only to direct the Government to re-consider the issue, after taking up necessary

consultations with the High Court on administrative side and after taking into consideration the observations made in the judgment and to pass orders within eight weeks. It will be useful to extract the operative portion of the judgment in W.P.No.18415 of 2002, which reads as follows:

“For all the above reasons, we are of the opinion that it is necessary that the Government shall reconsider the issue, after taking up necessary consultations with the High Court on administrative side and taking into consideration the observations made by us, as above, and pass appropriate orders, within a period of eight (8) weeks from the date of receipt of a copy of this order.”

12. In other words, the Division Bench of this Court did not grant the prayer of the petitioners to sanction the benefit of up-gradation with effect from 06.07.1992. The Division Bench simply directed the Government to re-consider the issue, in consultation with the High Court.

13. In accordance with the said decision, the Government addressed a communication, dated 06.12.2008 to the High Court, and the High Court responded by a reply, dated 16.01.2009, as seen from Serial Numbers 9 and 10 in the Reference Column of G.O.Ms.No.69, dated 08.07.2009.

14. Therefore, the petitioners cannot today seek reliefs that were not granted to them by the Division Bench of this Court in the previous round of litigation. No Government Order, having financial implication, can take retrospective effect, unless it is specified so in the order itself. No right of up-gradation was conferred upon the Deputy Section Officers by any Rule or Statutory sanction. It was a proposal made by the then Hon'ble Chief Justice, which was directed to be considered and implemented by the Division Bench of this Court. Therefore, the G.O.Ms.No.69, dated 08.07.2009, can only take prospective effect from the date of its issue and not from any date prior to the date of its issue. This is how the second question has got to be answered.

15. In view of the above, both these Writ Petitions are disposed of, directing both the Governments to pass appropriate consequential orders, by implementing G.O.Ms.No.69, Home (Courts.C) Department, dated 08.07.2009, with prospective effect from the date of the issue of the said Government Order, and to pay the whatever benefits are payable, within a period of twelve (12) weeks. Both the Governments shall take steps, as per the prescription contained in the Andhra Pradesh Reorganization Act, 2014, insofar as the sharing of the financial burden is concerned.

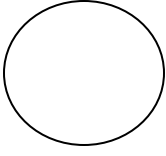
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

2nd February, 2017
cbs





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



Writ Petition Nos.34619 of 2011 & 41154 of 2016
(disposed of)

2nd February, 2017

cbs