

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.26118 of 2017

Date:04.8.2017

Between.

G.Narasimha Raju,

S/o Venkata Rao and another.

..... Petitioners

And.

Yarabala Raju,

S/o Kantharao and 39 others.

.....Respondents

Counsel for the petitioners: Mr. B.V.Rama Rao

Counsel for respondent Nos.36 to 40: GP for Services (AP)

The Court made the following:

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

The petitioners, who are unsuccessful in the recruitment process for the posts of Veterinary Assistants, first approached this Court by filing Writ Petition No.27486 of 2016 for a *Mandamus* to direct the respondents to conduct a detailed enquiry into the irregular selections for the posts of Veterinary Assistants as per notification No.2963/B.2/2015, dated 23.9.2015 and a further direction to respondent No.38 to consider the cases of the petitioners for appointment to the posts of Veterinary Assistants along with others as per their eligibility and merit.

In the said Writ Petition, a counter-affidavit was filed by respondent No.38, wherein it was stated that the petitioners' representation, dated 27.7.2016, was considered by the Joint Collector, who, in turn, passed orders appointing a four-member committee for revaluation of the answer sheets as per the guidelines issued by the Director of Animal Husbandry, Andhra Pradesh, Hyderabad. It was further stated that 232 candidates applied for 40 posts of Veterinary Assistants; that 207 candidates appeared for the written examination including the petitioners; that 36 merit candidates were selected by the Selection Committee; that 16 selected candidates who have passed 2-year Veterinary Polytechnic Course have joined duty;

and that other 20 candidates with qualification other than polytechnic were undergoing one year training from 21.12.2015. It was further stated that the petitioners did not figure in the merit list and therefore, they were not selected for the said posts. Respondent No.38 further stated that the Selection Committee completed the process of revaluation and submitted a detailed report to the Joint Collector, who is the Chairman of the Selection Committee, for further orders.

All that the learned single Judge did in that Writ Petition was that, having taken note of the stand taken by respondent No.38 in the counter-affidavit, he has directed the District Collector to call for a report from the Joint Collector and take necessary action in accordance with law within a period of four weeks from the date of receipt of a copy of that order. A further observation was made that if the District Collector finds any irregularity in the selection process, he can direct the Joint Collector to issue a fresh notification by cancelling the appointments of the selected candidates after issuing due notice to them.

This order came to be challenged by 36 candidates who were selected and appointed as Veterinary Assistants by way of filing Writ Appeal No.1013 of 2016. When the said Writ Appeal came up before this Division Bench, a representation was made

that after revaluation of the answer sheets, all the appellants except one have been qualified in the written examination. Keeping those facts in mind, the Division Bench has disposed of the Writ Appeal with the following observations:

“On a perusal of the order of the learned single Judge, we do not find any observation or direction which prejudicially affects the interests of the appellants. The authority concerned itself on receiving the representation from respondent Nos.1 to 15 constituted a Committee for revaluation of the answer sheets and this action has not been challenged by the appellants. Once the report is submitted by the Committee after revaluation, the competent authority has to take the matter to its logical end. This is exactly what the learned single Judge has directed to do so. Even as per the submissions of the learned counsel for the appellants as noted above, except one appellant, others are not being affected by revaluation. This being the admitted position, we do not find any reason to interfere with the order passed by the learned single Judge. It is needless to observe that if any of the applicants is affected by revaluation and any order adverse to his interests is passed, he is entitled to avail appropriate legal remedies available to him in law.”

After disposal of the said Writ Appeal, internal correspondence appeared to have ensued between the Joint Collector and the State Government, which culminated in passing of memo No.3334/AH-II(2)/2016-1, dated 18.11.2016, by the State Government. A perusal of the said memo shows that

it has referred to the reports of the District Collector and the Joint Collector, East Godavari District, regarding overwriting and rewriting of answers and also its seeking certain clarifications and rectifications in the irregularities occurred in the recruitment. Purporting to act on the said reports, the State Government has issued certain directions in paras-4 and 5 of the said memo, which read as under:

“Government have examined the matter in consultation with the Director, Animal Husbandry Department, keeping in view the reports of the District Collector and Joint Collector, East Godavari and found that serious irregularities have taken place in the Veterinary Assistant’s recruitment process such as that in the valuation of papers marks were given to the over writing answers and re-writing answers also. This has vitiated the selection process seriously. Therefore, it is directed to cancel the appointment of selected candidates and to issue fresh notifications.

In view of the above and in view of the orders of Hon’ble High Court, Government hereby direct the District Collector and Magistrate, East Godavari to cancel the appointment of selected candidates after issuing due notice to them and to issue fresh notification duly following the recruitment procedure/guidelines prescribed with immediate effect.”

During the pendency of O.A.No.4242 of 2016 before the Andhra Pradesh Administrative Tribunal at Hyderabad, we are told that in pursuance of the said memo, the Joint Collector has

passed a consequential order cancelling all the appointments and directed issuance of fresh notification for undertaking recruitment process afresh. Respondent Nos.1 to 35, who were appointed after revaluation, out of whom 16 were given postings and 19 were sent for training got the prayer in the said O.A. amended in order to question the said consequential proceedings of the Joint Collector. The official respondents have filed counter-affidavit seeking to justify the said memo of the Government and the proceedings of the Joint Collector impugned before the Tribunal.

On considering the respective pleadings and the submissions of the learned counsel for the parties, the Tribunal has allowed the said O.A. by order, dated 26.7.2017. Feeling aggrieved thereby, this Writ Petition is filed by two candidates who remained unsuccessful in the selection process. While allowing the said O.A., the Tribunal has rendered various findings on merits, which, need not be dealt with by this Court for the simple reason that even after revaluation of the answer sheets, the petitioners failed to get selected. It is not their pleaded case that revaluation was not properly done or any further irregularities remained after such revaluation, affecting their chances of passing the written examination.

In our opinion, once the petitioners failed to get selected even after revaluation, they lost the *locus standi* to question the selection process.

Admittedly, respondent Nos.1 to 35, were appointed after revaluation, out of whom 16 were given postings and 19 were sent for training. With their appointment an indefeasible right came to be vested in them. Therefore, their appointments ought not to have been directed to be set aside even without notice to them. Further more, the said memo issued by the State Government impugned before the Tribunal did not contain specific details of the alleged irregularities which, even according to the Joint Collector, were rectified by undertaking revaluation of the answer sheets.

In the afore-mentioned facts of the case, we do not find any reason to interfere with the impugned order.

During the hearing, Mr. B.V.Rama Rao, the learned counsel for the appellants, drew our attention to certain remarks made by the Tribunal on this Court entertaining Writ Petition No.27486 of 2016 and Writ Appeal No.1013 of 2016, *inter alia* holding that the orders passed therein are without jurisdiction and consequently, *nonest* in the eye of law. We do not propose to deal with the propriety of the Tribunal in making such observations. Being a constitutional entity and a Court of record,

it will be belittling itself, if this Court joins issue on the observations made by the Tribunal, a statutory creation. We do not intend to express anything beyond this as, it is left to the wisdom of the Tribunal whether it is appropriate for it to make such comments.

For the above-discussed reasons, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.52393 of 2017 filed by the petitioners for interim relief is dismissed as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

04th August 2017

DR