

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Writ Petition No.12796 of 2014

Between

1. B.P. Phanendra Prasad, S/o Subbaiah, Aged 41 years,
Jr. Asst., working at Prl. Sr. Civil Judge's Court,
Vijayawada, Krishna District
 2. P.Nagul Meera, S/o P.Abdul Sattar, Aged 40 years,
Jr. Asst., Jr. Civil Judge's Court, Gannavaram,
Krishna District
 3. B.V.V. Anil Kumar, S/o Chandra Mouli, Aged 37 years,
Typist, II Addl. District Court, Vijayawada, Krishna Dist.
 4. D.Venkateswara Rao, S/o Surendra Babu,
Aged 38 years, Jr. Asst., District Court, Krishna,
Machilipatnam on deputation Senior Civil Court,
Avanigadda, Krishna District
 5. Md.Afzar, S/o Md.Hussain, Aged 35 years, Jr. Asst.,
Jr. Civil Judge's Court, Bantumilli, Krishna District
- ... Petitioners

and

1. Govt. of AP, LA&J Home Courts.D Dept.,
Rep. by its Secretary to the Govt., LA & J.,
Secretariat, Secretariat Bldgs., Hyderabad
 2. High Court of AP., Rep. by its Registrar General,
High Court Bldgs., Hyderabad
 3. The District Judge, Krishna at Machilipatnam
- ... Respondents

DATE OF JUDGMENT PRONOUNCED: 16-11-2017

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

- | | | |
|---|---|--------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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- ... Respondents

! Counsel for Petitioners: Mr. Sai Gangadhar Chamarty

Counsel for Respondents: Mr. Posani Venkateswarlu,
Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No.12796 of 2014

Order: (per V.Ramasubramanian, J.)

The petitioners who are working as Junior Assistants, in various Courts in Krishna District, have come up with the above writ petition challenging the rejection of their claim for promotion to the post of Senior Assistants, as per the ratio of 5:1 provided under G.O.Ms.No.100, Home Department, dated 08-8-2013.

2. Heard Mr. Sai Gangadhar Chamarty, learned counsel for the petitioners and Mr. Posani Venkatewarlu, learned Standing Counsel for the High Court.

3. The case of the petitioners is that they were originally working in the category of Field Assistants, formerly known as Bailiffs/Amins and that they were later promoted as Junior Assistants/Typists. Consequent upon the implementation of the recommendations of the First National Judicial Pay Commission, the Service Rules for those employed in the Ministerial Service of the Judiciary were amended, under G.O.Ms.No.100, dated 08-8-2013. Under the said Rules, the post of Senior Assistant should be filled up by promotion from among the Junior Assistants (Category-8), Typists (Category-9) and Field Assistants (Category-10) in the ratio of 5:1 in a cycle of 6 vacancies.

4. Therefore, the petitioners made a representation on 26-4-2013 seeking promotion to the post of Senior Assistant, with effect from 01-4-2003. Since the said representation and the next representation dated 22-01-2014 did not evoke any response, the petitioners filed a writ petition in W.P.No.3375 of 2014. The writ petition was disposed of with a direction to the 3rd respondent to consider the representation and to pass orders in accordance with law.

5. Pursuant to the said order, the 3rd respondent considered the case of the petitioners and rejected their claim by the order impugned in the writ petition. Therefore, the petitioners are before this Court.

6. In order to understand the complexity of the issue raised in the writ petition, it may be necessary to have a look at the Statutory Rules and how they underwent amendments from time to time.

7. The Andhra Pradesh Judicial Ministerial Service Rules, 1964, were issued under G.O.Ms.No.206, Home (Courts-A) Department, dated 07-02-1964. The entire service was divided into 6 Divisions, namely, I. City, II. Shroffs in City Courts, III. Copyists in City Courts, IV. Mufassal Courts and Offices of Mufassal Public Prosecutors and Government Pleaders, V. Amins and Readers in Mufassal Courts and VI. Copyists in Mufassal Courts. Each one of the 6 Divisions had different categories of offices.

8. Since the petitioners herein were appointed in a Mufassal Court and not in the City, we need not consider the categories of posts in Divisions I, II and III of Rule 5 of the 1964 Rules. Out of the remaining 3 Divisions, namely, Divisions IV, V and VI, Division VI comprised of only one category of post namely Copyists in Mufassal Courts. Division V comprised of two categories of posts namely Amins and Readers in Mufassal Courts. Division IV comprised of 6 categories of posts. Broadly the 6 categories of posts comprised in Division IV under the 1964 Rules were --

1. Sheristadars of District and Sessions Courts, including Superintendents in such Courts in Telangana area,
2. Sheristadars of Subordinate Judges' Courts, Head Clerks, Nazirs, Record Keepers etc.,
3. Translators of District and Sessions Courts and Head Clerks of District Munsif's Courts,
4. Head Clerks of Subordinate Judges' Courts, Record Keepers of District Courts, Senior Superintendents of Copyists etc.,
5. Junior Assistants, Assistant Nazir, Junior Superintendents of Copyists, Typists etc., and
6. Assistant Superintendents of Copyists and Examiners.

9. As per the recommendations of the First National Judicial Pay Commission, the Government of Andhra Pradesh issued G.O.Ms.No.50, Law Department, dated 23-4-2009. By this Government Order, the Andhra Pradesh Judicial Ministerial Service was sought to be restructured. By this Government Order, the staff pattern of subordinate courts

was completely revamped and 12 categories of posts were created (or) redesignated. They are:

1. Chief Administrative Officer,
2. Senior Sheristadars/Senior Superintendents,
3. Sheristadars/Superintendents,
4. Stenographers (Grade-I),
5. Stenographers (Grade-II),
6. Stenographers (Grade-III),
7. Upper Division Clerks,
8. Lower Division Clerks/Typists/Copyists,
9. Bailiffs/Amins,
10. Examiner/Reader,
11. Process Servers and
12. Attenders/ Jamedars.

10. By another order in G.O.Ms.No.83, Law Department, dated 02-9-2009, the Government clarified that the orders issued in G.O.Ms.No.50, dated 23-4-2009, shall be deemed to have come into force with effect from 01-4-2003 and that the arrears of pay to the judicial employees from 01-4-2003 to 30-4-2009 shall be credited to the General Provident Fund Account of the concerned individuals.

11. After the issue of the Government Orders as aforesaid, the Registry of the High Court sought certain clarifications. Therefore, the Government issued yet another order in G.O.Ms.No.100, Law Department, dated 08-8-2013, making amendments to the Andhra Pradesh Judicial Ministerial Service Rules, 2003, which had earlier been issued under G.O.Ms.No.129, Law Department, dated 12-11-2003. Under the amendment so inserted under

G.O.Ms.No.100, dated 08-8-2013, the Judicial Ministerial Service was formed under Rule 5 to comprise of 12 categories of posts, namely,

1. Chief Administrative Officers,
2. Senior Superintendents,
3. Superintendents,
4. Stenographers (Grade-I),
5. Stenographers (Grade-II),
6. Stenographers (Grade-III),
7. Senior Assistants,
8. Junior Assistants,
9. Typists,
10. Field Assistants,
11. Examiners and
12. Copyists.

12. In Note: 1 under Rule 5 of the Amended Rules, it was stated as follows:

“The re-designation of the posts as above will be implemented with effect from 01-4-2003 and will not affect the gradation or seniority of persons holding posts as on the date of implementation of the G.O.”

13. The table under Rule 6 of the Amended Rules contained the method of appointment to various categories of posts and also indicated the Appointing Authority for each one of them. The post of Senior Assistant with which we are now concerned in this case, falls under Category-7. The table under Rule 6 stipulates that the method of appointment to the post of Senior Assistants is by promotion of Junior Assistants falling under Category-8, Typists falling under Category-9 and Field Assistants falling under Category-10 by

fixing the ratio of 5:1 in a cycle of 6 vacancies as prescribed in

Note: 2. Note: 2 under the table below Rule 6 reads as follows:

“Note: 2 **Cycle for promotion of Senior Assistants:**

1. Junior Assistant/Typist
2. Junior Assistant/Typist
3. Junior Assistant/Typist
4. Field Assistant
5. Junior Assistant/Typist
6. Junior Assistant/Typist”

14. The case of the petitioners is that they were originally appointed as Field Assistants, formerly known as Bailiffs/Amins and that they are now working as Junior Assistants/Typists. They claim that as per the Amended Rules issued under G.O.Ms.No.100, dated 08-8-2013, they should be promoted to the post of Senior Assistants, in the ratio prescribed in Note: 2 under the table below Rule 6, in a cycle of 6 vacancies, with effect from 01-4-2003.

15. It is true that G.O.Ms.No.100, dated 08-8-2013, was issued in modification of the A.P. Judicial Ministerial Service Rules, 2003 issued under G.O.Ms.No.129, dated 12-11-2003. It is also true that in Note: 1 under Rule 5, it was stipulated that the redesignation of the posts will be implemented with effect from 01-4-2003, but will not affect the gradation or seniority of persons holding posts as on the date of implementation of the Government Order.

16. But what the petitioners now claim is a promotion to the post of Senior Assistants, from the post of Junior

Assistants/Typists. This they are seeking, with effect from 01-4-2003.

17. If a person is merely seeking redesignation in terms of Note: 1 under Amended Rule 5, he is entitled to the same with effect from 01-4-2003. But if a person is seeking promotion, in terms of Rule 6, as per the cycle provided in Note: 2 under Rule 6, the same is not to be given with retrospective effect from 01-4-2003.

18. This Court had an occasion to consider the claims of Stenographers in *S.Venkatesham and another v. High Court of Judicature at Hyderabad* in W.P.No.12680 of 2015. That was a case where persons who were originally appointed as Steno-Typists/Stenographers, already got promoted as Senior Assistants and subsequently as Superintendents. After the amendment of the Rules under G.O.Ms.No.100, dated 08-8-2013, they wanted to go back to the cadre of Stenographers so that they would have the benefit of redesignation, with an opportunity for further promotion. By a judgment rendered on 24-3-2017 to which one of us (VRS, J.) is a party, this Court accepted the claim of the Stenographers.

19. But the case of the petitioners stands on a completely different footing. The petitioners herein are seeking promotion and not redesignation. What the petitioners now claim is that the vacancies that arose in the post of Senior Assistants after 2003, should be calculated and

they should be promoted retrospectively as per the cycle of promotions provided under Rule 6. This is not possible, as the Amended Rules provided only for retrospective redesignation and not for retrospective promotions. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

M.GANGA RAO, J.

16th November, 2017.

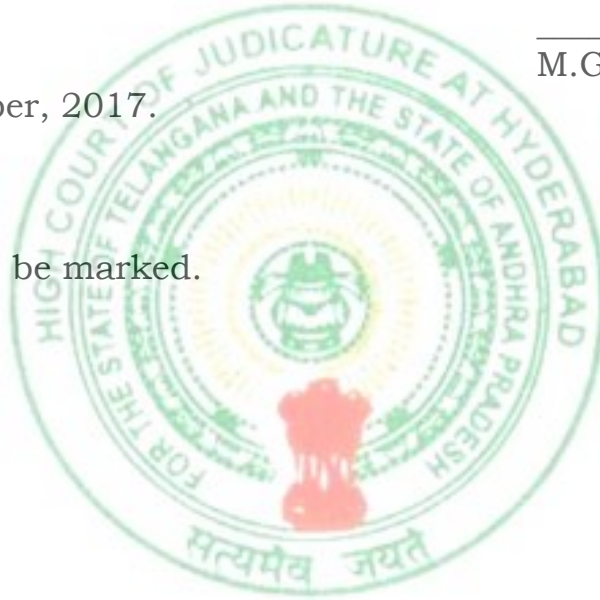
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Note:-

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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M.GANGA RAO

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(per VRS, J.)



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