

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION (TR) No.465 OF 2017

ORDER:

The petitioner was initially appointed as Shroff on compassionate grounds on 29.08.1985, but the petitioner submitted a representation stating that there are six posts of Junior Assistants vacant and he should be considered for posting as Junior Assistant. Before considering the said request, certain appointments for Junior Assistants were made and ultimately, he was promoted as Junior Assistant on 10.05.1990. The candidates who were appointed as Junior Assistants became senior to the petitioner by that date. Again, he submitted a representation seeking notional promotion from the date of his initial appointment and the same was considered on 28.08.1996 and an order was passed fixing the notional seniority of the petitioner with effect from 29.08.1985 for the seniority list of Junior Assistant/Typists and LD Stenos. Thereafter, the existing Junior Assistants submitted a representation and on consideration of the same, an order was passed on 15.02.1997 by the Regional Director, Medical and Health Services, Warangal, revoking the earlier order dated 28.08.1996. The said order was challenged in O.A.No.2058 of 1997 and the Tribunal disposed of the said O.A., on 09.07.2003, with the following observations.

“In the facts and circumstances of the case, the impugned proceedings are held to be bad since the applicant was appointed on compassionate grounds. The case of the applicant shall be considered for promotion as per final seniority list, if he is otherwise suitable and eligible for such promotion. If he is given such promotion, notional benefits shall be given prior to filling of this petition and monetary benefits subsequent thereof.”

Seeking implementation of the said order, the petitioner filed O.A.No.1879 of 2007 and the Tribunal considering the earlier order, dismissed the said O.A., on 18.01.2010, with the following observations.

“5. As can be seen from the order of this Tribunal in O.A.No.2058/1997, dated 04.07.2003, four directions were given. The first direction was setting

aside the order dated 15.02.1997, under which he was reverted as Shroff. The second direction was to give him promotion as per final seniority list, if he was eligible. That order was already complied with, even during the pendency of the O.A.No.2058/1997 and as admitted by the respondents in the counter, though it is not stated in this O.A. On the other hand, the applicant was still described as Junior Assistant. So, that relief need not be granted. The other direction was to give him notional promotion. That relief was already granted by this Tribunal in O.A.No.2058/1997 and the second O.A., cannot be filed for the same relief. So, this O.A., is not maintainable for granting such relief.

6. The next direction was for payment of monetary benefits with prospectively. That relief was already granted by this Tribunal. So, repeated reliefs cannot be granted.

7. The main prayer in the present O.A., is to implement the orders passed in O.A.No.2058/97, dated 04.07.2003. No second O.A., can be filed to implement the orders of this Tribunal. The course open to the applicant is to file an Execution Application within one year, as held by the Full Bench of this Tribunal in M.A.No.2960/2007 in O.A.No.7626/2005, M.A.No.3355/2007 in O.A.No.654/2003 and E.A.No.1/2007 in O.A.No.6133/2002, dated 11.06.2008, in view of the Judgment of the Hon'ble Supreme Court in the case of **Hukam Raj Khinvsara vs. Union of India & others** reported in **1997 (2) SLT 599.**"

The petitioner submitted a representation to fix his seniority and the representation was forwarded to the Regional Director on 31.05.2006. In the meanwhile, the petitioners filed C.A.No.1644 of 2010 in O.A.No.2058 of 1997 and the said application was closed by order, dated 14.09.2012. When a speaking order was passed by the Regional Director on 10.09.2012, the present O.A.No.2828 of 2013 was filed and the same was transferred to this Court and numbered as W.P (TR) No.465 of 2017.

The order passed by the Regional Director dated 10.09.2012 clearly discloses that the petitioner was initially appointed as Shroff on 29.08.1985 and subsequently appointed by transfer on promotion to the post of Junior Assistant on 10.05.1990. Since the petitioner submitted a representation pursuant to the order dated 04.07.2003 in O.A.No.2058 of 1997, the representation of the petitioner was examined in the light of Rule 33 of the Andhra Pradesh State and Subordinate Service Rules. Now the order states that the seniority in the category of Junior Assistant is reckoned from the date

of his appointment by transfer on promotion to the said category. Accordingly his request for further promotion on the basis of notional seniority from the date of appointment as Shroff on 29.08.1985, was rejected. The present writ petition was filed (transferred from Tribunal) by taking a cue from the order in C.A.No.1644 of 2010, dated 14.09.2012 that since the petitioner was initially appointed as Shroff and worked as such and subsequently, promoted as Junior Assistant by transfer, the petitioner cannot claim any notional seniority from the date of initial appointment.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

14.12.2017
pln

A.RAMALINGESWARA RAO, J

