

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE N. BALAYOGI**

WRIT PETITION No.46476 of 2016

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the unsuccessful applicant in O.A.No.2291 of 2016 on the file of the A.P. Administrative Tribunal, Hyderabad, which was dismissed by order dated 14.09.2016. The prayer of the petitioner in the said O.A., was to set aside the order dated 31.03.2016 passed by the Tahsildar, Adoni, Kurnool District, keeping in abeyance the proceedings dated 16.02.2016, whereby the petitioner was appointed as a Village Revenue Assistant on compassionate grounds. The reason for keeping the said appointment in abeyance was that the petitioner was involved in two criminal cases – one registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the second – a murder case. The Tahsildar therefore opined that as the petitioner was involved in criminal cases, he was not eligible to be appointed to hold public office and was not fit for appointment as a Village Revenue Assistant.

2. By the order dated 14.09.2016, the Tribunal added another facet to the matter to the effect that the petitioner had suppressed his involvement in the criminal cases. However, the order dated 31.03.2016 passed by the Tahsildar did not allege any such suppression. The Tribunal further opined that as the appointment of the petitioner was not cancelled and was only kept in abeyance till the criminal cases were finalized, no interference was warranted.

3. Sri Nayakawadi Ramesh, learned counsel for the petitioner, would place reliance on the Andhra Pradesh Village Revenue Assistants Service Rules, 2005, wherein Rule 9 (2) (ii) sets out the parameters of eligibility for appointment as a Village Revenue Assistant. Significant to note, conviction by a criminal court for an offence involving moral turpitude is made a ground for ineligibility thereunder and not mere involvement in criminal cases.

4. Learned Government Pleader for Services (AP) does not dispute this aspect and further confirms that even the Rules relating to compassionate appointment do not postulate that mere involvement in a criminal case would disentitle a person from seeking such appointment.

5. Thus, the action of the Tahsildar, Adoni, in keeping the appointment of the petitioner in abeyance is without legal sanction or basis. When there is no bar against appointment of a person involved in a criminal case to the post of Village Revenue Assistant by direct recruitment, such a bar cannot be applied to an appointment being made to the post on compassionate grounds. We therefore find that the order dated 31.03.2016 passed by the Tahsildar is unsustainable in law.

6. The Tribunal, however, lost sight of this aspect of the matter and built up a new case with regard to alleged suppression by the petitioner of his involvement in criminal cases. This was not the case on the basis of which the Tahsildar, Adoni, kept the petitioner's appointment in abeyance. The order passed by the Tribunal is therefore unsustainable on facts and in law and is accordingly set aside.

7. The Writ Petition is allowed setting aside the order dated 31.03.2016 passed by the Tahsildar, Adoni. The petitioner shall be admitted to the service expeditiously and in any event not later than four weeks from the date of receipt of this order.

8. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No costs.

SANJAY KUMAR, J

January 17, 2017
MRR



N. BALAYOGI, J