

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) NO.161 OF 2017

Date: 29.06.2017

Between:

A. Prabhakar S/o Laxmaiah, Aged 52 years, Fireman,
Parakala, Warangal District and others.

..... Applicants/ Petitioner

and

The State of A.P., rep.by the Director General of fire &
Emergency Services of Andhra Pradesh, Boorgula
Ramakrishna Rao Bhavan, Tank Bund Road,
Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) NO.161 OF 2017

ORDER:

Heard Sri K.L.N.Swamy, learned counsel for petitioners and learned Government Pleader for Services-II (TG) for respondents.

2. In the year 1987, petitioners and party respondents were recruited as Firemen. Petitioners joined service on 26.09.1987, whereas party respondents joined service on later date. However, in the merit list drawn by the authority, party respondents are shown above the petitioners. There is no dispute about the placements assigned in the merit list. Based on the dates of joining, seniority list was drawn in the year 2001 showing petitioners above the party respondents. In the year 2010 this list was proposed for revision and ultimately final seniority list was published on 03.02.2011. In the final seniority list, the names of the Firemen recruited in the year 1987 were reflected based on the merits secured in the selection process.

3. O.A. was instituted contending that even though they are seniors, ignoring them, their juniors are sought to be promoted to the next higher cadre by replacing the seniority list earlier drawn and the same is illegal. It appears, initially Tribunal granted interim orders prohibiting promotions to the post of Leading Firemen. This interim order was vacated by order dated 04.04.2013. Aggrieved by the order vacating the earlier interim order, petitioners filed W.P.No.12872 of 2013. This Court took note of the fact that as per the merit, petitioners are lower in the merit compared to the party respondents and, therefore, while

expressing its view that in preparing the seniority, merit has to be followed and not the date of joining, the Division Bench was not inclined to interfere with the order passed by the Tribunal in the vacate application and writ petition was accordingly dismissed.

4. The only issue for consideration is how to draw the seniority list of Firemen recruited directly from the open market ?

5. Rule 33 of Telangana State & Subordinate Service Rules deals with determination of seniority. According to the proviso appended to Rule 33 (b), order of merit or order of preference indicated in the select list of candidates prepared by the appointing authority should not be disturbed with reference to the candidates position in such list or panel while determining the seniority. In fact, the proviso goes to the extent of conferring notional date of appointment to the more meritorious candidates on account of joining late in service.

6. When merit is not in dispute, petitioners cannot take advantage of fortuitous circumstance of joining service earlier to more meritorious candidates. Thus, the date of joining cannot be criteria while determining the seniority of persons recruited directly from the same selection. When the Rule position is clear, no exception can be drawn to the action of the respondent authorities in determining seniority by giving effect to the proviso appended to Rule 33 (b) and assigning seniority to the Firemen based on the merit secured by them in the selection process. I see no merit in the writ petition and is accordingly dismissed.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 29.06.2017
kkm



HON'BLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION (TR) NO.161 OF 2017

Date: 29.06.2017

kkm