

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) Nos.2929 AND 4820 OF 2017

Dated:06.07.2017

W.P.(TR).No.2929 of 2017

Between:

A. Kodanda Ram Reddy,
S/o. Narayana Reddy, aged
About 52 years, Occ: District
Townf and Country Planning Officer,
R/o. Hanamkonda, Warangal District .. Petitioner

And

The Government of Telangana, rep., by its
Principal Secretary, Municipal Administration
And Urban Development Department,
Secretariat, Hyderabad and another .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) Nos.2929 AND 4820 OF 2017

COMMON ORDER:

W.P.(TR).No.2929 of 2017 is filed praying to grant the following relief:

“... to direct the respondents to promote the Applicant as Deputy Director with effect from the date of his eligibility and availability of vacancies with all consequential benefits in view of the qualifications held by him and experience gained by him as Assistant Director and in teeth of the Judgment of this Hon'ble Tribunal in O.A.No.9342 of 2011 and batch dated 12.03.2013 and the Judgment dated 08.12.1993 in O.A.No.2541 of 1992 and batch, by holding the action of the respondents in not doing so and contemplating/denying promotion to the post of deputy Director on baseless grounds and contrary to their own stand as bad, arbitrary, illegal and unconstitutional and pass such other order or orders AS THIS Hon'ble Tribunal may deem fit and proper in the circumstances of the case”.

2. W.P. (TR).No.4820 of 2017 is filed praying to grant the following relief:

“... to direct the respondent to promote the applicant as Deputy Director with effect from the date of the eligibility and availability of vacancies with all consequential benefits in view of the qualifications held by him and experience gained by him as Assistant Director and in teeth of the judgment of this Hon'ble Tribunal of O.A.No.9342 of 2011 and batch dated 12.03.2013 and the Judgment dated 08.12.1993 in O.A.No.2541 of 1992 and batch and in terms of Rule 3 (B) of A.P. State Subordinate Service Rules, by holding the action of the respondents in not considering the case of the applicant for promotion as Deputy Director of Town Planning and denying promotion of the applicant to the post of Deputy Director on baseless grounds and contrary to their own stand as bad, arbitrary, illegal and unconstitutional and consequently direct the respondent to consider and promote

the applicant as Deputy Director of Town Planning in the existing vacancies and pass such other order.”

3. In substance, the grievance of the petitioners is that the decision rendered by the Tribunal in the earlier round of litigation is not extended to them with reference to their eligibility for promotion as Deputy Director of Town Planning.

4. Counter affidavit is filed in O.A.No.6178 of 2014 (W.P.(TR).No.2929 of 2017). No counter affidavit is filed in O.A.No.4979 of 2015 (W.P. (TR).No.4820 of 2017).

5. Learned Government Pleader for Services – II, on instructions, submits that since counter affidavit is filed in W.P.(TR).No.2929 of 2017 and as the issue involved in W.P.(TR).No.4820 of 2017 is same, the averments made in the counter affidavit in W.P. (TR).No.2929 of 2017 is adopted.

6. In the counter affidavit filed in W.P. (TR).No.2929 of 2017, the respondents have averred at paragraph Nos.6, 7 and 10 as under:

“6. It is submitted that in the above new special rules, the qualification of M.A. (Sociology) which was existed in the old rules has not been prescribed for appointment to the post of Assistant Director. This was challenged by the employees those who were recruited with basic qualification with M.A. (Sociology) in Town Planning Service, before the A.P.A.T. by filing O.A.No.2541 of 1992 raising apprehension on their promotional prospects to the higher cadre in view of not prescribing the qualification of M.A. (Sociology) to the higher posts. Counter affidavits have been filed before the Hon’ble A.P.A.T. stating that the applicants would continue to get promotions as they possessed P.G. qualifications and AITP. The Hon’ble A.P.A.T. in its orders dated 08.12.1993 in

O.A.No.2541 of 1992 keeping in view the counters filed by the Government and DTCP, upheld the new special rules. Consequently, promotions are being considered in the Town Planning Service to the higher cadres.

7. It is submitted that as per the new rules, the qualification of M.A. (Sociology) possessed by the applicant as a basic qualification which was existed in old special rules of A.P. Town Planning Service Rules, 1959 was not prescribed in the amended special rules of A.P. Town Planning Service Rules, 1992 issued in G.O.Ms.No.197, Municipal Administration and Urban Development (B2) Department, dated 25.03.1992 and his case for promotion as Assistant Director of Town Planning was considered as per existing procedure based on the P.G. qualification in Town Planning and length of service and also eligibility which is also as per the provisions of Rule 3 (B) of A.P. State and Subordinate Service Rules, 1996, viz., the rules made under proviso to 309 of the Constitution of India, cannot be operated to deprive the right (or) privilege of the existing incumbent.

10. In view of the above, the case of the applicant will also be considered to the post of Deputy Director of Town Planning as per the A.P. Town Planning Service Rules, 1992 issued in G.O.Ms.No.197, Municipal Administration and Urban Development (B2) Department, dated 25.03.1992 as amended in G.O.Ms.No.462, Municipal Administration and Urban Development (B2) Department, dated 02.07.2008 and other rules governing the said post duly following the due procedure existing mentioned in para 6 and 7 above, in the Department and as per his eligibility otherwise.”

7. Having regard to statement of respondents in the above extracted paragraphs, learned counsel for the petitioners submit that no further orders are required to be passed in the Writ Petitions and the petitioners do not intend to prosecute the Writ Petitions.

8. Recording the said submission, the Writ Petitions are disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Writ Petitions (TR) shall stand closed.

P. NAVEEN RAO, J

Date:06.07.2017

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