

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Writ Petition No.29731 of 2017

DATED:12-09-2017

Between:

The State of Andhra Pradesh
Rep. by its Principal Secretary
School Education Department
Secretariat, Velgapudi,
Guntur District
and others

... Petitioners

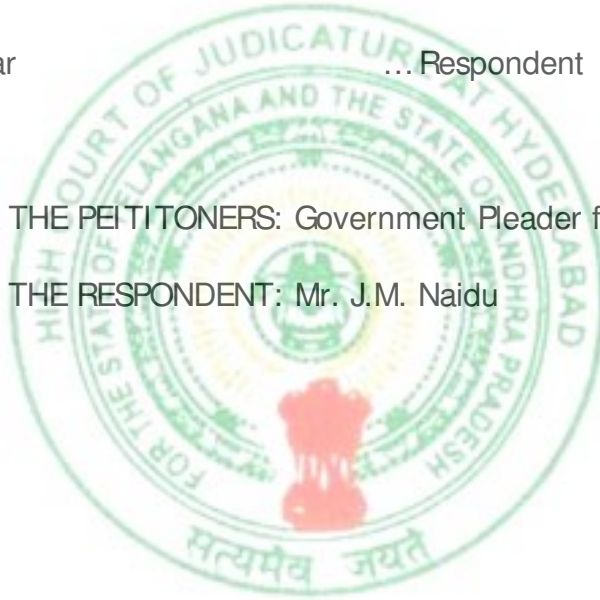
And

P. Ashok Kumar

... Respondent

COUNSEL FOR THE PETITIONERS: Government Pleader for Services (AP)

COUNSEL FOR THE RESPONDENT: Mr. J.M. Naidu



THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed for certiorari to quash order dt.19.4.2017 in O.A. No.6182 of 2015, on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (hereinafter referred to as "the Tribunal").

2. The respondent was appointed as Junior Assistant on compassionate grounds in the place of his deceased father on 12.06.2000. As he did not have the required qualification of pass in Intermediate, which is the minimum educational qualification for the post of Junior Assistant, he was exempted from holding such qualification for a period of three years with the condition that he should obtain the said qualification within three years from the date of his appointment and with the further condition that he will be paid Rs.3,290/- minimum basic pay in the scale of pay till he acquires the qualification. As the respondent failed to acquire the qualification within the stipulated time, he made a representation to petitioner No.4 on 08.07.2005 seeking extension of time by two years from 11.07.2005 for acquiring the required qualification. The respondent has also made two more representations on 06.04.2006 and 20.12.2006 to petitioner No.4 reiterating his request. While so, the respondent passed Intermediate examination in March, 2007, and sent the memorandum of the pass certificate to petitioner No.2 with a representation dt.08.08.2007 requesting him to regularize his services, declare his probation and release all the attendant benefits. Though several subsequent representations appeared to have been made by the respondent, the same were not responded to by the petitioners. Eventually, by proceedings dt.23.10.2015 petitioner No.4 has reverted the respondent from the post of Junior Assistant to that of the Attender with retrospective effect from 12.07.2000. The said order was assailed by the

respondent before the Tribunal on several grounds, including the one that not even a show cause notice was issued to the respondent before the reversion order was passed. After considering the counter affidavit filed by the petitioners and hearing the submissions of the learned counsel for both sides, the Tribunal has allowed the O.A. by setting aside the proceedings impugned before it.

3. We have heard the learned Government Pleader for Services (AP) and Mr. J.M. Naidu, learned counsel for the respondent.

4. It is not in dispute that the period of three years initially given for acquiring the requisite qualification stipulated in G.O. Ms. No.577, dt.29.10.1993, was extended by two more years vide G.O. Ms. No.969, dt.27.10.1995 and the same was extended by one more year vide G.O. Ms. No.289, dt.04.08.2000. The petitioner pleaded that due to health reasons he could not acquire the qualification within the stipulated time of six years and that it took nine months more for him to acquire the qualification. As rightly observed by the Tribunal no action was taken by the petitioners though the respondent did not acquire the required qualification for nine months beyond the stipulated period of six years, and that after acquiring the qualification the petitioners kept quiet for more than eight years. The Tribunal further observed that having allowed the petitioner to work as Junior Assistant for fifteen years, the action of the petitioners in reverting him to the post of Attender with retrospective effect, long after he acquired the required qualification, is wholly arbitrary. After carefully considering the reasons assigned by the Tribunal, we are of the opinion that the same do not suffer from any illegality or error apparent on the face of record warranting our interference in exercise of our jurisdiction under Article 226 of the Constitution of India.

5. The writ petition is therefore dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.37010 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

12-9-2017

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