

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI

WRIT APPEAL No. 1499 OF 2017

DATED 16TH OCTOBER, 2017

Between:

Erpula Sudhakar and another ... Appellants

AND

The Additional District Medical &
Health Officer (T), Bhadrachalam,
Khammam District, and others ... Respondents

Counsel for the appellants : Sri M.R.Tagore

Counsel for the respondents : G.P. for Services (T.S.)

THE COURT MADE THE FOLLOWING

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Writ Appeal is filed against order dated 27-07-2017 in W.P.(TR).No. 429 of 2017, whereby the learned single judge dismissed the Writ Petition filed by the appellants assailing notice dated 20-02-2013 and proceedings dated 28-02-2013 of the respondents seeking to discontinue the appellants who are working as Pharmacists, Grade – II, on contract basis.

2. At the hearing, learned Government Pleader for Services (T.S.), in-charge of transferred cases from the Tribunal, brought to our notice proceedings dated 20-07-2017, whereby respondent No. 2 extended the services of appellant No. 1 as Pharmacist, Grade – II, till 31-03-2008, and also similar proceedings dated 01-09-2017 extending the services of appellant No. 2 till the said date. Learned counsel for the petitioners submitted that as his clients were appointed on contract basis subject to the condition that they will be removed from the contract service when the local S.Ts. are available, a direction may be issued to the respondents to continue the appellants till the local S.T. candidates are appointed.

3. Under Rule 22 of Andhra Pradesh State and Subordinate Service Rules, 1996 (for short, '1996 Rules'), vacancies reserved for

S.T. candidates have to be filled up by S.T. candidates only and if candidates belonging to the said category are not available, limited recruitment must be conducted to fill up those vacancies and even if, during the limited recruitment, S.T. candidates are not available, the vacancies have to be carried forward on three occasions and that only thereafter, the Government can take a decision to denotify the vacancies. Based on this Rule position, the learned single judge held that Advertisement No. 1 of 2007, in pursuance of which the appellants were appointed on contract basis, is contrary to Rule 22 of 1996 Rules. While the findings of the learned single with respect to Rule 22 are not exceptionable, obviously the State Government incorporated condition No. 9 in the Advertisement anticipating that suitable S.T. candidates may be not available and in order to meet the exigencies of work. Indeed, the State Government issued G.O.Ms.No. 247, Health, Medical and Family Welfare (J2) Department, dated 19-07-2007 and para No. 6 thereof reads as follows:

"In case the local tribal candidates as stipulated in G.O.Rt.No. 68 are not available, the vacancies shall be filled by others strictly on contract basis by the District Selection Committee duly following merit and rule of reservation. However, such contract appointees shall be replaced with eligible local tribal

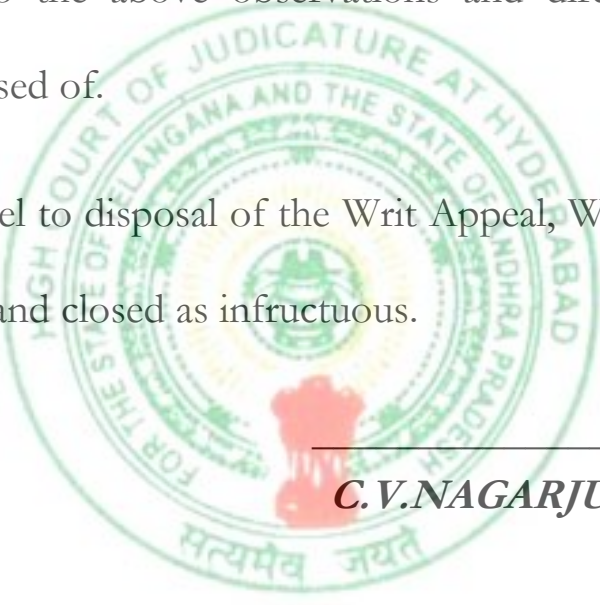
candidates as and when such qualified candidates become available for appointment."

It appears in pursuance of this G.O., Clause No. 9 in the Advertisement No. 1 of 2007 is incorporated. As noted hereinbefore, evidently to meet the requirements of Pharmacists in the agency areas, G.O.Ms.No. 247 was issued purely as a stopgap arrangement. Viewed from this angle, neither the said G.O. nor the Advertisement could be perceived as running contrary to Rule 22. Being conscious of the fact that the vacancies cannot be filled up on permanent basis, at the first instance, the respondents envisaged only contract appointments. In this view of the matter, we are of the opinion that till S.T. vacancies are carried forward for three times as envisaged under Rule 22, the respondents are well within their power to make contract appointments without prejudice to the interests of the eligible S.T. candidates and as and when suitable S.T. candidates are found, the contract appointees could be replaced. We however hasten to add that the appellants cannot claim any right to continue under the contract appointment as the respondents are entitled to terminate their contract at any time at their discretion for proper reasons.

4. In the light of the two proceedings dated 20-07-2017 and 01-09-2017 issued by respondent No. 2 extending the contract services of the appellants up to 31-03-2018, the respondents are directed to continue them till the said date. Discretion is however given to the respondents to take a decision whether to extend the contract service of the petitioners or not from 01-04-2008.

5. Subject to the above observations and directions, the Writ Appeal is disposed of.

6. As a sequel to disposal of the Writ Appeal, W.A.M.P.No. 2780 of 2017 shall stand closed as infructuous.



C.V.NAGARJUNA REDDY, J.

K.VIJAYA LAKSHMI, J.

Date: 16-10-2017.

JSK