

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

TUESDAY THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER

WRIT PETITION No.2148 OF 2008
AND
WRIT PETITION No. 14701 OF 2009

Between: WRIT PETITION No.2148 OF 2008

The District Panchayat Officer,
Medak at Sanga Reddy & Ors. ... Petitioners

V/s.

G. Manik Rao ... Respondent

WRIT PETITION No. 14701 OF 2009

The District Panchayat Officer,
Adilabad district & Ors. ... Petitioners

V/s.

V. Shankaraiah ... Respondent

Counsel for the Petitioner : Govt. Pleader for Services-II

Counsel for the Respondents :

The court made the following: : [order follows]

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER

WRIT PETITION No.2148 OF 2008
AND
WRIT PETITION No. 14701 OF 2009

COMMON ORDER : (Oral, *Per the Hon'ble Sri Justice Suresh Kumar Kait*)

Since the facts in issue are similar in both the writ petitions, therefore, both the writ petitions are being adjudicated by this common order.

2. Vide the Writ Petition No.2148 of 2008 and Writ Petition No. 14701 of 2009, the petitioners assailed the order dated 31/08/2007 and 12/02/2009 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.7954 of 2003 and O.A.No. 9663 of 2002, whereby the application under section 19 of the Administrative Tribunal Act, 1985 filed by the respondents were allowed directing the petitioners to pass necessary orders considering the case of the respondents for appointment as Panchayat Secretary under category-V.

3. It is pertinent to mention here that appeared none on behalf of the respondents on the last date of hearing i.e., 04/7/2017 and this Court made it clear that on the said date if no arguments are advanced

on behalf of the respondent on the next date of hearing, this Court will proceed in their absence, however, today also the position remains same. Having no other alternative, this Court decided to proceed with the matter.

3. The respondents in both the writ petitions initially worked as Patwari [Village Officer] for 22 and 16 years respectively. After abolition of Village Administrative Officers System, the respondents were appointed as Village Administrative Officers, Thimmapur village of Medak district, through proceedings dated 27/02/1992 and Indaram, Jaipur Mandal, Adilabad district, through proceedings dated 31/12/2001 respectively. Later the Government issued G.O.Ms.No. 369, dated 12/12/2001 clubbing the Panchayat and Rural Development and created the posts of Panchayat Secretaries. The qualification prescribed for the post of Panchayat Secretary is S.S.C. and the age should be below 58 years and as per the said G.O.Ms.No. 369, Village Administrative Officers, who were possessing the prescribed age can be appointed as Panchayat Secretaries. The admitted case of the respondents is that they acquired S.S.C. qualification in March, 2002. As the respondents were

not considered and appointed as Panchayat Secretary, they filed O.A.No. 993 of 2002 and O.A.Nos. 7764 and 7162 of 2002 seeking declaration that they are eligible for appointment as Panchayat Secretary. The said OAs were disposed of vide order dated 30/10/2002, directing the petitioners herein to consider the case of the respondents. In spite of which the impugned order is passed on the ground that the respondents did not possess the prescribed qualification.

4. The point for consideration before the Tribunal was as under :

“ Whether the impugned order rejecting the request of the applicant for appointment as Panchayat Secretary under category-V is bad under law ? ”

5. It is pertinent to mention here that the A.P. Panchayat Raj [Panchayat Secretary] Subordinate Service Rules were issued under Article 309 of the Constitution of India read with sub-section [1] of Section 268 of A.P. Panchayat Raj Act of 1994 in G.O.Ms.No. 295, Panchayat Raj and Rural Development, dated 02/08/2002. As per Rule-2 of the said Rules, Panchayat Secretaries under Category-V can be appointed from Village Development Officer Grade-III or qualified Village Administrative Officers after obtaining their option and from other categories. Rule-7 says that no person shall be eligible for

appointment by transfer to the post of Panchayat Secretary unless he or she has passed S.S.C. examination or its equivalent and if direct recruitment is made in future, the minimum qualification for direction recruitment shall be graduation. The same qualifications are prescribed in G.O.Ms.No. 369, dated 12/12/2001 which are executive instructions.

6. The contention of the petitioners before the Tribunal was that the respondents did not acquire the qualification of S.S.C., by 12/12/2001 and those who qualified by that date alone have been considered for the post of Panchayat Secretary on transfer from Village Administrative Officer as per G.O.Rt.No. 1913, dated 20/12/2003.

7. It is important to note that the validity of G.O.Rt.No. 1913, dated 20/12/2003 prescribes the cut-off date, came up for consideration before the Tribunal in O.A.No. 532 of 2004 and batch. The said batch of OAs were allowed holding that prescribing the cut-off date in G.O.Rt.No. 1913 Panchayat Raj dated 20/12/2003 which was not there in service rules for acquiring the qualification was bad under law. Accordingly, the said clause was set aside and the said order became final.

8. Admittedly, the respondents acquired S.S.C. qualification in March, 2002. Therefore, by March, 2002 respondents became eligible for appointment as Panchayat Secretary, as they had passed S.S.C., and worked as Village Administrative Officer.

9. It is pertinent to note that in O.A.No. 993 of 2002 vide order dated 30/10/2002, the learned Tribunal passed the following order :

“In view of the facts and circumstances obtaining in this case, the respondents are directed to consider the case of the applicant afresh without reference to the impugned orders for appointment as Panchayat Secretary as his services were transferred to Panchayat Raj Department while working as Village Administrative Officer for which 7th Class Pass qualification is prescribed and also keeping in view the service conditions prescribed in G.O.Ms.No. 384, PR & RD Department dated 22/12/2001 in view of the fact that the applicant passed SSC examination in the month of May, 2002. Thus, this OA is disposed of with the above directions.”

10. In view of the above, the learned Tribunal opined that the District Panchayat Officer, without properly understanding the direction of the Tribunal, rejected the representation of the respondents for appointment as Panchayat Secretary, under Category-V, which is obviously incorrect. It is not in dispute that the order passed by the

Tribunal in O.A.No. 532 of 2004 has attained finality and the same has not been challenged by the petitioners.

11. In view of the clarification made in G.O.Ms.No. 1913, Panchayat Raj dated 20/12/2003, wherein the cut-off date was not there in service rules for acquiring the qualification was held to be bad in law, we find no illegality or perversity in the orders passed by the learned Tribunal in both the writ petitions.

12. Finding no merit, these writ petitions are dismissed with no order as to costs.

13. As a sequel, pending miscellaneous petitions, if any, shall stand closed.



JUSTICE SURESH KUMAR KAIT

Dr. JUSTICE SHAMEEM AKTHER

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER

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WRIT PETITION No.2148 OF 2008
AND
WRIT PETITION No. 14701 OF 2009

[DISMISSED : COMMON ORDER]

(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)

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