

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WP Nos.33343, 37346, 37349, 37377, & 37427 of 2017

COMMON ORDER

All these writ petitions are being disposed of by this common order as they relate to admission of in-service candidates for B.Sc (Agriculture) Course in the 3rd respondent-University.

W.P.No.33343 of 2017 is filed by the petitioners seeking a direction to the 2nd respondent to prepare fresh list on the basis of marks obtained in Diploma/Inter or Higher qualification (B.Sc with B.Z.C Group) and following the reservation, in addition to the seniority of service, in terms of letter dated 31.7.2017 of the 3rd respondent and also to set aside the list sent by the 2nd respondent solely on the basis of the seniority without following other criteria.

W.P.No.37377 of 2017 and other writ petitions are filed challenging the action of the 3rd respondent-University in not giving admissions to the nominated in-service candidates in spite of communication dated 27.09.2017 issued by the 2nd respondent and for a consequential direction to the 3rd respondent to give admissions to the petitioners.

The facts leading to filing of the present batch of cases are that the petitioners are working as Agriculture Extension Officers in various Districts of Telangana State. The said post is a district post, and a separate seniority list is maintained District-Wise for the said posts. They were eligible to be considered for promotion to the post of Agriculture Officer provided they possess a degree in Agriculture. Since they joined the service without having such a degree, the Government thought it fit to enable them to acquire a qualification of Degree in Agriculture by reserving 5% of the seats available in the 3rd respondent-University for the in-service candidates. In the composite State of Andhra Pradesh, G.O.Ms.225, Food & Agriculture (Agri.V) Department, dated 11.3.1976 was issued enabling the Field Assistants and Sub-Assistants of Agriculture Department for further Studies in B.Sc (Agriculture) Course subject to the conditions mentioned therein, and they are as follows:

- i) Only such of those Field Assistants and Sub-Assistants of Agriculture Department with 5 years of service and not more than 40 years of age, who fulfil the entrance qualification for admission into B.Sc. (Ag) course and selected by the Andhra Pradesh Agricultural University be

allowed to be deputed for studying B.Sc (Ag) Course. The Director of Agriculture will be authority competent to sponsor the candidate direct to the Andhra Pradesh Agricultural University.

ii) The Sub-Assistants and Field Assistants who are selected to prosecute B.Sc (Ag.) course should execute an agreement to serve the department after completion of the course for a period of three years and in default thereof to pay such amount, they have received from the Government during the period of study. During the course of study, if he fails, he has to prosecute the studies at his own expense thereafter.

iii) The posts of Field Assistants and Sub-Assistants who are deputed to study B.Sc. (Ag) course will not be filled up and they will be paid their pay and allowances by the concerned drawing officers under whom they were working at the time of deputation to B.Sc. (Ag) course subject to the condition that they will not be eligible to any leave or leave salary, stipend or scholarship.”

Condition No.(i) mentioned above is substituted by G.O.Ms.No.250, Agriculture & Co-operation (Agri.IV) Department, dated 6.10.2009, and it reads as follows:

“In the said G.O., for sub-para (i) under para-2, the following shall be substituted.

Only such of those Agricultural Extension Officers (two years Diploma holders in Agriculture) of Agriculture Department with 3 years of service and not more than 45 years of age who fulfill the entrance qualification for admission into B.Sc. (Ag) course and selected by the Acharya

N.G.Ranga Agricultural University be allowed to be deputed for studying B.Sc (Ag) course. The Commissioner & Director of Agriculture, Hyderabad will be authority competent to sponsor the candidate direct to the Acharya N.G.Ranga Agricultural University.”

When there were problems with regard to the selection of the candidates and sponsoring them, the Government thought it fit to clarify the positions and issued G.O.Ms.No.77, dated 5.3.1981 to give preference in the following order:

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- “1. Graduate Sub-Assts. Gr.I
 2. Sub-Asst Gr.I with Intermediate qualifications.
 3. Graduate Sub-Assts. Gr.II with 5 years service as Sub-Asst.
 4. Sub-Asst. Gr.II with 7 years service as Sub-Asst and possessing inter of equivalent qualifications.
 5. Graduate Field Asst. with 7 years of Service Field Asst.
 6. Field Assts. with 7 years of service with inter or equivalent Qualification.”

After bifurcation of the State, the Government of Telangana issued G.O.Ms.No.1112, Agriculture & Cooperation (AGRI.II) Department, dated 27.9.2017 granting permission to the Commissioner of Agriculture, Hyderabad to sponsor 19 candidates from the cadre of Agriculture Extension Officers for pursuing of B.Sc(Hons/Ag) as in-service candidates as per the district

seniority i.e., 2 AEOs from each erstwhile (9) districts and remaining (1) from any of the erstwhile district on rotation basis from 2017-18 onwards as was done during the year 2016-17 to safeguard the promotion channel for senior Agriculture Extension Officers, as certain AEO's were losing their chance to get admission into B.Sc(Ag), though they are seniors.

Now the 3rd respondent issued a notification inviting applications from the eligible candidates for admission into B.Sc (Hons) Agriculture for the academic year 2017-18. The course is open to the regular students as well as in-service candidates. As per the reference made available, 19 seats are meant for in-service candidates. The last date prescribed for admission was 31.10.2017. The above Government orders were issued before the last date prescribed for admission.

While so, the Registrar of the 3rd respondent University addressed a letter dated 31.07.2017 to the 2nd respondent- Commissioner & Director of Agriculture seeking nominations of the candidates against 5% reserved seats i.e., 19 seats. In his letter, he mentioned the criteria as pass in Intermediate examination

conducted by the Board of Intermediate Education of A.P. & Telangana or its equivalent examination with “any two” of the following subjects (including those who passed compartmentally)
(or) Diploma in Agriculture.

- (1) Physical Sciences
- (2) Biological Sciences (or) Natural Sciences
- (3) Agricultural Sciences

Further, it was stated that the candidates must have completed a minimum 3 years of service and must be less than 45 years of age as on 1.7.2017. It was further stated that the candidates may be selected based on the weightage of their service and the marks obtained by them in Diploma/Inter and in Higher Qualification such as (B.Sc with B.Z.C group) duly following the rule of reservations. It was also stated the University has allotted the candidates to various colleges in the year 2016-17 on the said basis. After receipt of the said letter, the 2nd respondent invited nominations of the eligible & willing Extension Officers/Field Assistants in a prescribed pro-forma on before 11.8.2017 by communicating a copy of the memo to all the erstwhile District Agriculture Officers in the State. This was followed by another

memo dated 22.8.2017 asking the District Agriculture Officers to send the names as per the seniority of AEOs in the District by duly following Rule 33 of the State & Subordinate Service Rules, 1996 by 23.08.2017 afternoon without fail.

At that stage, it appears that the petitioners in W.P.No.33343 of 2017 submitted a representation to the Registrar stating that the 2nd respondent was sponsoring the candidates by taking only seniority into consideration without considering the merit. It was also stated that when a list was sent during the year 2016-17, out of 9 candidates only one candidate joined in the course. The 2nd respondent, ultimately, sent a list to the 3rd respondent on 24.09.2017 by sponsoring the names of 19 candidates by strictly taking the seniority into consideration in respect of each District.

As stated above, after sending the list on 24.09.2017, the Government issued G.O.Rt.No.1112, dated 27.09.2017 and taking the said GO into consideration, the 2nd respondent sent another list on 27.09.2017, and the names in the list dated 24.09.2017 and 27.09.2017 are same.

Now the grievance of the petitioners in W.P.No.33343 of 2017 is to take merit-cum-seniority into consideration, whereas the petitioners in other writ petitions whose names find place in the list sent by the 2nd respondent, is that the seniority alone should be taken into consideration as per the above Government order.

In the light of the above rival claims, the purport of the Government orders, as stated above, have to be seen. The reservation to the B.Sc (Ag) course was provided in order to provide an opportunity for further promotion to the in-service candidates and for the said purpose, 5% seats were reserved for them and same comes to 19.

There is no dispute with regard to the qualification possessed by the petitioners in all these writ petitions, but the only dispute is with regard to taking into consideration the merit obtained by them in the qualifying examination. W.P.No.33343 of 2017 is based on the said merit, whereas the list now sponsored by the respondents is wholly based on the seniority.

A conjoint reading of G.O.Ms.225 dated 11.3.1976 and G.O.Ms.No.250, dated 6.10.2000 enables the admission of the

persons, who fulfilled the criteria of 3 years and not crossed the age of 45, into B.Sc (Ag) Course. It is also stated that the 2nd respondent is the competent authority to sponsor the candidates. But the candidates have to be selected by the 3rd respondent. There is no provision applying for admission directly to the University and the candidates have to be sponsored by the 2nd respondent and those sponsored candidates have to be selected by the 3rd respondent. The 2nd respondent shall sponsor the candidates in terms of G.O.Ms.No.77, dated 5.3.1981 providing criteria therefor. G.O.Ms.No.1112, dated 27.09.2017 also provides for equitable distribution of seats among all the Districts in the State of Telangana. The entire case of the petitioners in W.P.No.33343 of 2017 is based on a letter dated 31.7.2017 of the 3rd respondent addressed to the 2nd respondent, wherein it was asked to send the list based on the weightage of their service, marks obtained in Diploma/Intermediate and higher qualification of the candidates duly following the rule of reservation. The 3rd respondent is not concerned with the prescription of qualifications except verifying whether they fulfil the eligibility criteria as per the

prospectus issued by the University. There is no dispute that the sponsored candidates fulfilled the eligibility criteria. In G.O.Ms.No.225 dated 11.3.1976 as amended in G.O.Ms.No.250, dated 6.10.2009, there is no requirement of merit while sponsoring the candidates by the 2nd respondent. Now, the 2nd respondent sponsored the candidates taking into consideration the seniority, which is a valid consideration, as it provides opportunity to the seniors, who are willing to pursue the course to get further promotion.

In view of the same, WP No.33343 of 2017 is dismissed and W.P.Nos.37346, 37349, 37377 & 37427 of 2017 are allowed. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

16th November, 2017
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