

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

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO

+ WRIT APPEAL No.1592 OF 2017

Between:

% Smt. M. Santha W/ o. Mohan,
Aged about 55 years, working as Watchman
At Government Social Welfare Girls Hostel,
Ramadugu, Ramadugu Mandal, Karimnagar District.

...Appellant

Vs.

\$ The State of Telangana,
Rep. by its Principal Secretary,
Scheduled Caste Development Department,
Secretariat Buildings, Hyderabad and others

.. Respondents

! Counsel for the Appellant : Sri A. Malahar Rao

^ Counsel for the Respondents : G.P. for Services-I (TG)

< GIST:

> HEAD NOTE:

? Cases referred : Nil



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.1592 OF 2017

JUDGMENT: (per V. Ramasubramanian, J)

Challenging the dismissal of her writ petition, questioning the correctness of the cancellation of her appointment, the writ petitioner has come up with the above writ Appeal.

2. Heard Mr.A.Malahar Rao, learned counsel appearing for the appellant and the learned Government Pleader for Services –I (TG).

3. The appellant was an unfortunate victim of rape. She belongs to the Scheduled Caste.

4. Considering the offences committed against her, the Deputy Director of Social Welfare appointed the appellant on temporary basis, in the Government Scheduled Caste Girls Hostel, way back on 05.03.1991. After continuing for a long time, the appellant made a representation for regularization of her services in terms of G.O.Ms.No.29 dated 08.03.1985.

5. Finding that there were already Government Orders in G.O.Ms.No.212, dated 22.04.1994 and G.O.(P) No.112, dated 23.07.1997, providing for regularization of the services of persons who had completed five years of service as on 25.11.1993, and also finding that the appellant may not fulfill the criteria under those Government Orders, the District Collector (SC Development Department), Karimnagar, considered the case of the appellant in terms of G.O.Ms.No.29, dated 08.03.1985. The District Collector found that though the appellant was entitled to the benefit of G.O.Ms. No.29, she was not granted appointment due to non-availability of vacancies.

Therefore, the District Collector passed an order, dated 05.01.2016, appointing the appellant in a timescale of pay as Watchwoman, with effect from 05.01.2016, with monitory benefit only with prospective effect.

6. However, within seven months of the appointment, a show cause notice dated 22.08.2016 was issued to the appellant on the ground that her regular appointment was not in accordance with law. Though the appellant submitted an explanation, the District Collector passed an order, dated 26.08.2016, rejecting her explanation and canceling the order of appointment dated 05.01.2016. Challenging the order of cancellation of appointment dated 26.08.2016, the appellant filed a writ petition in W.P. No.35928 of 2016. While ordering notice in the writ petition, the learned single Judge granted an interim order. But, the State came up with an application for vacating the interim order. While taking up the vacate stay petition, the learned Judge decided the writ petition itself against the appellant and dismissed the same on the ground that her case would not be covered by G.O.Ms.No.212, dated 22.04.1994. Aggrieved by the said order, the appellant is before us.

7. A careful look at the order of the learned single Judge would show that the learned Judge opined that the appellant had not completed five years of service as on 25.11.1993 to qualify for the benefit of G.O.Ms.No.212, dated 22.04.1994. Insofar as the claim of the appellant for the benefit of G.O.Ms.No.29, dated 08.03.1985 is concerned, the learned Judge opined in paragraph-15 of his judgment that the benefit of employment under the said Government Order would be available only if there was death or permanent incapacitation. Insofar as the interpretation given by the learned Judge for G.O.Ms. No. No.212 is concerned, there cannot be any second opinion. That leaves

us with the question as to whether the interpretation given by the learned Judge to G.O.Ms.No.29, dated 08.03.1985, could be said to be correct or not.

8. Way back in the year 1976, the Government issued G.O.Ms.No.199, dated 09.12.1976, providing for monitory as well as other rehabilitation measures to the members of the families of Scheduled Castes and Scheduled Tribes, who became victim of atrocities. The said Government Order was followed by several other orders culminating in G.O.Ms.No.29, dated 08.03.1985. This Government Order was a compilation of all the previous Government Orders. Apart from the monitory benefits, provided under the Government Order, the said Government Order also provided for Government employment. Under paragraph - 2(x)(i) of G.O.Ms.No.29, it was stipulated that in the case of death or permanent incapacitation, one eligible member of the family including children or wife/husband or any adult member, who would look after the family, may be appointed to a suitable post under Government or any Public Undertaking. The said paragraph reads as follows:

“2. In order to bring together all the existing instructions on the scheme of relief and rehabilitation of victims of atrocities belonging to Scheduled Castes and Scheduled Tribes, in modification of the orders read above, Government direct that the measures of relief and rehabilitation should consist of the following:

- i).....
- ii).....
- iii).....
- iv).....
- v).....
- vi).....
- viii)....
- ix).....
- x).....

i) In cases of death or permanent incapacitation, one eligible member of the family including children or wife/husband or any adult member who would look after the family may be appointed to a suitable post under the Government or any Public Undertaking without the medium of Employment Exchange in relaxation of the existing rules in this respect. After filling up the vacancy, the appointing authority

will furnish all relevant particulars of the individual to the Employment Exchange with reference to the appointment made under this order. Such appointments should be made either by the District Collector concerned or with the prior approval of the District Collector.”

9. A careful look at the paragraph - 2(x)(i) of G.O.Ms.No.29, extracted above, would show that it has two limbs. Under the first limb, it is only the other members of the family in which a death or permanent incapacitation had happened, who are entitled to appointment to a suitable post in the Government. But, under the second limb, the benefit of employment provided in the first limb was extended for rehabilitating the victims of rape.

10. Unfortunately, the learned Judge took note of only the first limb of paragraph - 2(x)(i) of G.O.Ms.No.29, and did not take note of the second limb. Under the second limb, the victims of rape are also entitled to employment.

11. As a matter of fact, the expression “permanent incapacitation”, should also be understood to mean rape.

12. Therefore, the interpretation given by the leaned Judge to G.O.Ms.No.29 does not appear to be correct. Following G.O.Ms.No.29, the Government issued G.O.Ms.No.3 dated 16.01.1996. Under this Government Order, the relief and rehabilitation measures originally provided in G.O.Ms.No.29 were enhanced. Annexure 1 to the said Government Order indicated the benefits available to the victims of atrocities. Serial No.21 in the annexure to G.O.Ms.No.3, dated 16.01.1996, reads as follows:

21	Victim of murder, death massacre rape and gang rape, permanent incapacitation and decoity.	In addition to the relief amount paid under above items relief may be arranged within three months of date of atrocity as follows: (a) Pension to each widow and or other dependants of deceased SC and ST @ Rs.1,000/- per month, or employment to one member of the family of the deceased or provision
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		of agriculture land and house if necessary by out right purchase. (b) Full cost of the education and maintenance of children of the victims. Children may be admitted Ashram Schools/ Residential Schools. (c) Provision of utensils rice, wheat, dals, Pulses etc., for a period of three months.
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13. Following G.O.Ms.No.3 dated 16.01.1996 another order was issued in G.O.Ms.No.22, Social Welfare, dated 16.06.2012. The benefits made available to the victims of atrocities, were listed in the annexure in the G.O.Ms.No.22. Serial No.21 in the annexure to G.O.Ms.No.22 reads as follows:

21	Victim of murder, death massacre, rape and mass rape and gang rape, permanent incapacitation and decoity.	In addition to relief amount paid under the above items, relief may be arranged within three months of date of atrocity as follows: (i) Pension to each widow and / or other dependants of deceased SC and ST @ Rs.3,000/- per month, or employment to one member of the family of the deceased, or provision of agriculture land, an house, if necessary by outright purchase. (ii) Full cost of the education and maintenance of the children of the victims. Children may be admitted to Ashram Schools/ Residential Schools. (iii) Provision of utensils, rice, wheat, dals, Pulses etc., for a period of three months.
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14. Even recently, the Government issued an order in G.O.Rt.No.362, Scheduled Castes Development Department, dated 22.07.2017. Under the said Government order, a Scheduled Caste woman (a victim of gang rape), was provided employment by the Government.

15. Therefore, it is clear that G.O.Ms.No.212 is not the Government Order that should be applied to the cases of this nature. What is applicable to cases of this nature are G.O.Ms.No.29, dated 08.03.1985, G.O.Ms.No.3, dated 16.01.1996 and G.O.Ms.No.22, dated 16.06.2012. Hence, the appointment originally granted by the Collector

on 05.01.2016 was correct. The cancellation ordered on 26.08.2016 is wrong.

16. We cannot be oblivious of the fact that the appellant was originally appointed in 1991 and it was only after she completed about 25 years of service as a Daily Wager that she got a regular appointment on 05.01.2016. Hence, the learned single Judge was not correct in upholding the cancellation order. Therefore, the Writ Appeal is allowed and the impugned order is set aside and the writ petition filed by the appellant shall stand allowed. It is needless to point out that the appellant will be entitled to all the consequential benefits as per the order of appointment dated 05.01.2016.

17. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.



V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

November 07, 2017
KTL

Note:

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B/O.KTL