

**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 D.V.S.S. SOMAYAJULU**

WRIT PETITION No.9283 of 2015

Date:01.10.2018

Between:

Smt. Ch. Vijaya Durga D/o.Ch. Ramakrishna,
Aged 34 years, Presently working as Record
Assistant, 7th Additional JFCM Court,
Rajahmundry, East Godavari District and others

... Petitioners

v.

The Registrar (Administration),
High Court of Judicature at Hyderabad,
Hyderabad and others.

... Respondents

For Petitioners : Mr. G.U.R.C. Prasad

For Respondents : Mr. Posani Venkateswarlu
Standing Counsel for TAPHC

Gist :

Head Note :

Cases Referred :

C/15

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

WRIT PETITION No.9283 of 2015

ORDER: *(Per V. Ramasubramanian, J)*

The petitioners, who were appointed originally in November, 2004, pursuant to a notification issued by the District Judge, East Godavari, in March, 2004, as Office Subordinates in the Courts in East Godavari District, have come up with the above writ petition seeking the extension of the benefit of promotion on the basis of G.O.Ms.No.50 Law, dated 23.04.2009 on par with the benefit extended to the unofficial respondents, namely, respondent Nos.3 to 24.

2. Heard Mr. G.U.R.C. Prasad, learned Counsel for the petitioners, and Mr.Posani Venkateswarlu, learned Standing Counsel for the respondents.

3. Pursuant to the recommendations of the First National Judicial Pay Commission, the Government of Andhra Pradesh issued G.O.Ms.No.50, dated 23.04.2009, modifying the procedure for recruitment to various posts and providing for channels of promotion and revision of pay scales. Unfortunately, G.O.Ms.No.50, dated 23.04.2009 was not issued in exercise of the power conferred by the proviso to Article 309 of the Constitution of India, amending the Andhra Pradesh Judicial Ministerial Service Rules.

4. However, the Government issued another order in G.O.Ms.No.100 Law, dated 08.08.2013, amending the A.P. Judicial Ministerial Service Rules, 2003, insofar as the Rules related to (1) constitution of the service (2) various categories of posts (3) the methods of appointment (4) appointing authority and (5) the qualifications for both direct recruitment and promotions.

5. As stated earlier, the petitioners herein applied in response to a notification dated 18.03.2004 and were appointed as Office Subordinates in East Godavari District, on 22.11.2004 and 29.11.2004. It is relevant to note that the post of Office Subordinates fell under the last grade service and hence, the terms and conditions of service relating to the said post, were governed by the A.P. Last Grade Government Servants Service Rules.

6. G.O.Ms.No.50 identified about 12 categories of posts, the last of which, namely, category No.12 was the post of Attenders/Jamedars. This Government Order also recognized that attenders and jamedars were entitled to be promoted as Process Servers, provided they had put in not less than three years of service and had passed 8th standard. A quota of 50% was created for promotion and 50% for direct recruitment under G.O.Ms.No.50.

7. But, when the Special Rules for Andhra Pradesh Judicial Ministerial Service Rules were amended by G.O.Ms. No.100 dated 08.08.2013, the original proposals underwent a modification, insofar as the promotional avenues for persons working in the last grade government service were concerned. Under G.O.Ms.No.100, the

Judicial Ministerial Service was reconstituted to comprise of 12 categories of posts. The last 3 categories of posts were that of Field Assistants, Examiners and Copyists. The amended Rule – 6 of the Special Rules for A.P. Judicial Ministerial Service, provided for recruitment by transfer from the post of Process Server to the post of Field Assistant. Similarly, the same Rule provided for a quota of 50% to be filled up by the method of transfer from the A.P. Last Grade Service, to the post of Examiners and Copyists.

8. Before proceeding further, two distinctions are to be noticed.

9. For filling up the post of Field Assistant, falling under category-10, a quota of $33 \frac{1}{3}^{\text{rd}}$ percent was reserved for direct recruitment and $66 \frac{2}{3}^{\text{rd}}$ percent was reserved for transfer of Process Servers. Insofar as Examiners and Copyists are concerned, the quota was 50% for direct recruitment and 50% for promotion. The second difference is that for promotion to the post of Field Assistant, only those working as Process Servers among the last grade servants was eligible. But for the post of Examiners and Copyists, Attenders in the Last Grade Service were made eligible under G.O.Ms.No.100.

10. The actual grievance of the petitioners in this case is that immediately after the advent of G.O.Ms.No.50, the petitioners should have been granted the benefit of promotion as Process Servers under the 50% quota reserved under the table below Paragraph-5 of the Government Order. The relevant portion of the table below paragraph-5 of G.O.Ms.No.50 dated 23.04.2009 is as follows:

(1)	(2)	(3)	(4)	(5)
11.	Process Servers	50% by promotion from the cadre of Attenders/Jamedars. 50% by Direct recruitment.	<u>For Promotion:</u> i) Must have put in not less than three years of service in the cadre of atteders/ jamedars. ii) Must have passed VIII standard examination. <u>For direct Recruitment:</u> i) Must have passed VIII standard examination.	3130-6150 (as against 2550-4550)
12.	Atteders/Jamedars	By direct recruitment	Must have passed VII standard examination.	

11. The contention of the petitioners is that since they were appointed in November 2004, as Office Subordinates and since they had completed three years of service in November 2007, they became entitled to be promoted to the post of Process Servers under G.O.Ms.No.50. According to the petitioners, this benefit was not extended to them, on a wrong understanding of G.O.Ms.No.50 and on a wrong understanding of the interplay between G.O.Ms.No.50 and G.O.Ms.No.100. It is the further grievance of the petitioners that the unofficial respondents were directly appointed as Process Servers, by the appointment orders dated 09.02.2009, though they were actually appointed as attenders and that therefore, juniors had scored a march over the petitioners, who were seniors.

12. But, it can be seen from the G.O.Ms.No.50 that what was provided therein was not an assured career advancement, but only a right to be considered for promotion. There is a vast difference between an assured career advancement scheme and a right to be promoted. Under an assured career advancement scheme, one is

entitled to automatically move over to the next grade or next category of post. But, when a mere right to be considered for promotion is conferred, all that the petitioners will be entitled to claim, will be to point out whether there were promotions made after the issue of G.O.Ms.No.50, whether the vacancies that arose in the post of Process Servers after the issue of G.O.Ms.No.50 were filled up according to the quota available for direct recruitment and promotion and whether for the purpose of promotion, persons, who had fulfilled the eligibility criteria was properly considered or not.

13. The petitioners have not come up with any factual details about number of vacancies that arose in the post of process servers after the issue of G.O.Ms.No.50. The petitioners have also not come up with the factual details whether such vacancies that arose after the issue of G.O.Ms.No.50, were filled up partly by direct recruitment and partly by promotion and whether the cases of all eligible candidates were considered under the 50% quota for promotion or not. In the absence of these details it is not possible to conclude that G.O.Ms.No.50 was not implemented in its true letter and spirit in favour of the writ petitioners.

14. Coming to the case of the unofficial respondents, it is seen from the orders of appointment issued to them on 09.02.2009, that a recruitment notification dated 19.09.2007 was issued. It was in pursuance of the notification so issued that the unofficial respondents were directly recruited. It was not a case of persons who were appointed along with the petitioners to the very same post, scoring a

march over the writ petitioners. The orders of appointment issued to the unofficial respondents on 09.02.2009 shows that they were posted as process servers. By the time, the order dated 09.02.02009 was issued appointing the unofficial respondents as Process Servers directly, the petitioners have already become process servers. Irrespective of the correctness of the said order, the same remained unchallenged at least till the year 2015 when the petitioners came up with the above writ petition. By then, a period of six years has passed. Even now there is no challenge to the order dated 09.02.2009. Therefore, the validity of the posting of the unofficial respondents directly as process servers cannot really be tested here in this case.

15. Hence, we think the petitioners are not entitled to the relief they claim. Therefore, the writ petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

D.V.S.S. SOMAYAJULU, J

October 01, 2018

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