

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

*** HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

AND

HON'BLE MS JUSTICE J. UMA DEVI

+Writ Petition Nos.6024 and 6052 of 2018

% 29-8-2018

W.P.No.6024 of 2018

Between:

Pedda Venkatesh, S/o P. Narayana, aged about
31 years, working as Field Assistant, Court of Judicial
Magistrate of First Class, Visakhapatnam District.

... Petitioner

Vs.

The Registrar (Administration), Higher Court
At Hyderabad, and another

... Respondents

W.P.No.6052 of 2018

Between:

Chappa Sridevi, W/o Saibabu, aged about
37 years, working as Field Assistant, Court of
Senior Civil Judge, Chodavaram, Visakhapatnam
District and another

... Petitioner

Vs.

The Registrar (Administration), Higher Court
At Hyderabad, and another

... Respondents

! Counsel for the Petitioner : Mr. G.U.R.C. Prasad

^ Counsel for Respondents : Mrs. Swaroop Oorilla, standing
Counsel for the High Court

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> Head Note:

? Cases referred:



HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition Nos.6024 and 6052 of 2018

COMMON ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by the orders of reversion from the post of Field Assistant to the post of Process Server, the petitioners have come up with the above writ petition.

2. Heard Mr. G.U.R.C. Prasad, learned counsel for the petitioners and Mr. Swaroop Oorilla, and Sri J. Anil Kumar, learned standing counsel appearing for the High Court.

3. The petitioners in both these writ petitions were first appointed as Office Subordinates in July, 2011. They were promoted as Process Servers in the year 2012. Later they were promoted as Field Assistants in the year 2016.

4. When the question of entering in their respective Service Registers, the further educational qualifications acquired by these petitioners after entry into service arose, the High Court took the view that the petitioners shall not claim any service benefits, on the basis of the qualifications acquired after entry into service, without seeking necessary prior permission. Therefore, the 2nd respondent namely the District Judge, Visakhapatnam by the proceedings dated 16-02-2018 impugned in these writ petitions, ordered their reversion from the post of Field Assistants to the post of Process Servers. Challenging the said order, the petitioners are before us.

5. The facts are not in dispute. The petitioners were admittedly appointed originally as Office Subordinates, later promoted as Process Servers and eventually promoted as Field Assistants by the proceedings dated 28-10-2016. In the proceedings dated 28-10-2016, it was made clear that the promotions of the petitioners were subject to the report of the authenticity of their educational qualification certificates and that the promotions were temporary in nature. At that time, the request of the petitioners to enter in their Service Registers, the further higher qualifications acquired after entry into service, was pending consideration of the High Court. The High Court took a decision that the qualifications acquired by the petitioners can be entered into their service registers, subject to the condition that the same will not be the basis for the purpose of claiming any service benefits. This was on account of the fact that the petitioners did not obtain prior permission for prosecuting further higher studies after entry into service.

6. But it appears from the pleadings in one case that what was prosecuted by the petitioner was only what was abandoned by him before his entry into service. The petitioner in W.P.No.6024 of 2018 passed X class in the year 2001 and joined B.Com degree through distance mode in the Andhra University, during the academic year 2004-05. He completed three years of the course of study from 2004-05 to 2006-07. He passed in all the subjects in the first year, he passed all the subjects except one in the second year and he failed in three subjects in the third year examination. He joined

services in the year 2011 as an Office Subordinate. After his entry into service, he merely appeared for the subjects in which he failed in the second year and the third year of B.Com degree. Therefore, the same cannot be treated as an act of prosecuting further higher studies after entry into service without obtaining the prior permission of the department.

7. In so far as the petitioners in W.P.No.6052 of 2018 are concerned, they passed X class before entry into service. After entry into service, both of them appeared for Intermediate examination on 04-04-2015 under a scheme promoted by the Government of Andhra Pradesh, which came to be known as Andhra Pradesh State Open School Scheme. This Andhra Pradesh Open School Scheme System was started with a view to provide education to all, with special concern for girls and women, rural youth, Scheduled Castes, Scheduled Tribes, minorities, differently-abled persons etc. There was no regular curriculum requiring the petitioners to attend classes. Therefore, the failure of the petitioners to obtain prior permission need not be put against them.

8. It could have been a different matter, if the qualifications had been acquired through distance mode or Open University system which are not recognized at all for appointment or promotion. That is not the ground on which the petitioners are sought to be reverted.

9. Reliance is placed by the respondents, on Government Memorandum No.609/Ser.C/78-1, dated 06-04-1978 issued by the

General Administration (Services.C) Department, Government of Andhra Pradesh. By the said memo, the Government stipulated that prior permission of the Government or the Heads of the Departments is necessary even in cases where government servants pursue correspondence courses of study. But it is seen from a decision of the Division Bench of this Court dated 30-12-2015 passed in W.P.No.30688 of 2013 that so long as the Government Memo dated 06-04-1978 is not communicated to the employees, the failure of the employees to obtain prior permission cannot be put against them.

10. Therefore, in view of the above, the writ petitions are allowed and the impugned orders of reversion are set aside.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 29-8-2018

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