

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

+ Writ Petition No.14722 of 2017

% Date: 21-02-2018

A.Subramanyam, S/o. A.Chinnabba, Aged 45 years,
Working as Process Server on deputation
in the Court of III Addl. District Judge, Tirupati,
Chittoor District, R/o. D.No.6-48/23, SKD Nagar,
MR Pally, Tirupati-2, Chittoor District

... Petitioner

Vs.

\$ 1. The State of A.P., Rep. by its Law Secretary,
Secretariat Buildings, Velagapudi,
Amaravati, Guntur District

2. High Court of Judicature at Hyderabad for the
State of Telangana and the State of A.P.,
Rep. by its Registrar (Admn.)

3. The District and Sessions Judge, Chittoor

4. P.Ugandhar, Aged 39 years, Working as Jr. Asst.,
Jr. Civil Judge's Court, Satyavedu, Chittoor District

... Respondents

! Counsel for petitioner: Mr. K.G. Krishna Moorthy,
Senior Counsel, representing
Mr. K.Ramamohan

Counsel for respondents 1to3: Smt. Bobba Vijaya Lakshmi,
Standing Counsel

Counsel for respondent No.4: Mr. N.Chandradhar Rao

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> Head Note:

? Cases referred:
Nil.

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Order: (per V.Ramasubramanian, J.)

Aggrieved by the promotion granted to the 4th respondent to the post of Junior Assistant, a Process Server on deputation to the Court of III Additional District Judge, Tirupati, has come up with the above writ petition.

2. Heard Mr. K.G. Krishna Moorthy, learned Senior Counsel appearing for the petitioner, Smt. Bobba Vijaya Lakshmi, learned Standing Counsel for the High Court and Mr. N.Chandradhar Rao, learned counsel appearing for the 4th respondent.

3. Admittedly, the petitioner was appointed as Process Server on 17-9-1994. The 4th respondent was appointed as Process Server on 03-01-1998. Therefore, the 4th respondent was obviously junior to the writ petitioner. This is why when a gradation list as on 01-7-2015 was released on 02-4-2016, the name of the petitioner was found at serial No.43 and the name of the 4th respondent was found at serial No.49.

4. But it appears that after the issue of G.O.Ms.No.100, Law (LA&J-Home-Courts.D) Department, dated 08-8-2013, the 4th respondent herein made a representation and also came up with a writ petition in W.P.No.18401 of 2014 contending that his representation has not been considered for promotion.

5. On account of the filing of the writ petition by the 4th respondent, the Administrative Committee of this Court, resolved to direct the District Judge to consider the case of the petitioner under the amended rules and to take consequential steps in the matter. Immediately, the learned District Judge passed an order promoting the 4th respondent to the post of Junior Assistant on 16-12-2016. Aggrieved by the said order, the petitioner has come up with the above writ petition.

6. The case on hand is virtually one of tortoise scoring a march over the hare. There is no dispute about the fact that the petitioner was appointed at least 3 years before the date of appointment of the 4th respondent to the very same post of Process Server. There is also no dispute about the fact that the petitioner is senior to the 4th respondent in the feeder category.

7. It is seen from the counter affidavit independently filed in the Registry of this Court and the District Judge that the only reason for granting promotion to the 4th respondent was that he filed a writ petition and that the Administrative Committee issued a direction to the District Judge to consider his case. If the District Judge is directed to consider the case of a person for promotion, his case should be considered, along with all persons who are seniors to him. The District Judge does not appear to have considered the case of persons who were seniors to the 4th respondent in the feeder category,

but simply granted promotion to the 4th respondent, as though it was a command from the High Court to overlook seniority.

8. It is not the case of the respondents that the petitioner was suffering from any disqualification for being promoted. Therefore, the directions issued by the Administrative Committee should have been understood in the proper perspective, to mean a direction to consider the case of the 4th respondent along with all his seniors. Since this has not been done, the impugned order requires to be interfered.

9. Therefore, the writ petition is allowed directing the respondents 1 to 3 to consider the case of the petitioner for promotion and pass appropriate orders within 4 (four) weeks from the date of receipt of a copy of this order, granting him promotion if he is otherwise eligible, with effect from the date on which the 4th respondent was promoted and to grant him seniority in the promoted post over and above the 4th respondent. If there are persons who are seniors to the writ petitioner and seniors to the 4th respondent who have not so far approached the Court, their cases will also have to be considered on par with the 4th respondent. If there are more persons to be considered than the number of vacancies available, the persons who were seniormost should be accommodated as against the vacancies, if necessary reverting the 4th respondent. In the event of the petitioner

being promoted with effect from the date on which the 4th respondent got promoted, he will not only be entitled to seniority and also entitled to notional fixation without arrears. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

T.AMARNATH GOUD, J.

21st February, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

Writ Petition No.14722 of 2017
(per VRS, J.)



21st February, 2018.
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