

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.20614 of 2001

ORDER

The petitioner, who is working as a Senior Assistant, filed this writ petition, seeking to issue a Writ of Mandamus declaring the proceedings dated 06.04.2000 issued by the 1st respondent, as arbitrary and illegal and consequently to direct the respondents to consider the case of the petitioner as Senior Assistant with effect from 28.06.1990 and as Manager from 01.08.1993 with all consequential benefits of pay and allowances on par with his junior, J.L.P Subrahmanyam-5th respondent.

The brief facts of the case are that the petitioner was appointed as L.D.Accountant on 03.01.1985 in the 3rd respondent-society and his services were regularized as Junior Assistant with effect from 14.03.1990 vide proceedings dated 25.09.1993. Thereafter, he was promoted as Senior Assistant on 16.10.1993, his services were regularized and his probation was also completed vide proceedings dated 14.01.1999. In the seniority list prepared, he was shown at Sl.No.14, whereas the 5th respondent was shown at Sl.No.18. On 19.11.1999, the Government issued a Memo to rectify the irregular promotions and settle the issues. Accordingly, the 1st

respondent issued orders promoting the petitioner with effect from 06.04.2000 and he was shown at serial No.9. Though the petitioner was working as Senior Assistant with effect from 16.10.1993, the 5th respondent, was promoted as Senior Assistant on 28.06.1990, and as Manager on 1.8.1993 by the Chairman and M.D. The petitioner has to be given promotion as Senior Assistant on 28.06.1990 and as Manager on 1.8.1993 on par with his junior J.L.P.Subrahmanyam-5th respondent. Subsequently, after filing the writ petition, on the representation of the petitioner, his seniority in the post of Senior Assistant with effect from 16.10.1993 was confirmed and he was shown at serial No.1 in the combined seniority list. In view of confirming the seniority of the petitioner as Senior assistant, the grievance in this writ petition is settled. But, notional promotion with effect from 28.6.1990 as Manager from 1.8.1993 on par with his junior J.L.P.Subrahmanyam-5th respondent was not given. However, in pursuance of the order of this Court, the 5th respondent was reverted to the post of Senior Assistant and he was posted as a Loan Inspector, which is equivalent to the post of Senior Assistant. Thereafter, his pay was fixed *vide* proceedings No.2815/APSTEP/A/2013, dated 20.02.2014 in the pay scale of Rs.14860-39540/- with effect from 1.7.2008. The grievance of

the petitioner is that though he is senior to the 5th respondent, he was not extended the time scale as was extended to the 5th respondent. Hence, the present writ petition.

Sri J.Sudheer, learned counsel appearing for the petitioner, submits that though the petitioner was promoted as Senior Assistant vide proceedings dated 16.10.1993 and his services were regularized and his probation was also declared vide proceedings dated 14.01.1999, in the combined seniority list, he was shown at serial No.14, whereas the 5th respondent, who was shown at serial No.18, and was promoted as Senior Assistant with effect from 6.4.2000, approached this Court by filing W.P.No.7866 of 2000 and this Court passed the following order:

“In case, the petitioners or any of them have been promoted to the post of Managers in respective District Units by the appointing authority, in accordance with law, on regular basis, they shall be extended the benefit of pay scales adapted to that post from the date of such appointment.

In case, the appointment is only on officiating basis, they shall be entitled to draw the salary of the substantive posts held by them, as well as the other allowances that may be stipulated for the post of Manager.”

Learned counsel further contends that the 1st respondent without giving any notice and in violation of principles of

natural justice *vide* proceedings No.76/APSTEP/2000, dated 6.4.2000, prepared the seniority, given promotion to the petitioner as Senior Assistant with effect from 6.4.2000 instead of 16.10.1993, though the petitioner was already promoted as Senior Assistant with effect from 16.10.1993. Hence, the action of the 1st respondent in promoting the petitioner with effect from 6.4.2000 is arbitrary and illegal. He further contends that after filing the writ petition, though the petitioner was given seniority with effect from 16.10.1993, he was given pay scales on par with his junior-5th respondent.

Per contra, learned counsel appearing for the respondents 3 and 4 while reiterating the contentions raised in the counter-affidavit, contends that as per instructions issued by the Government *vide* its Memo No.6841/SES/PMU/A1/2000, dated 19.11.1999, a combined seniority list was prepared and the petitioner was shown at serial No.14 and he was promoted as Senior Assistant *vide* proceedings dated 6.4.2000 by duly taking into consideration the promotions effected earlier and date of joining. The Government had issued instructions *vide* Memo No.6841/SES/PMU/A1/99, dated 19.11.1999 to rectify the irregular promotions and settle the issues. Accordingly, combined seniority list was prepared. He further contends

that the claim of the petitioner for his notional promotion as Senior Assistant from 28.6.2990 and as Manager from 1.8.1993 is imaginary and is not maintainable and he is not entitled for such claim. However, extension of pay scale on par with his junior-5th respondent would be considered, as per law.

As can be seen from the record, the petitioner was promoted as Senior Assistant vide proceedings No.1534/APSTEP/A1/93, dated 16.10.93. His probation in that cadre was completed vide proceedings dated 14.01.1999 and the petitioner is senior to the 5th respondent. In all aspects, the 5th respondent is a junior as he was promoted as Senior Assistant with effect from 6.4.2000. Though the petitioner was senior to the 5th respondent, the pay of the 5th respondent was fixed in the scale of Rs.14860-39540/- vide proceedings dated 20.02.2014. Hence, it is appropriate to direct the respondents to consider the case of the petitioner for grant of pay scale which was extended to the 5th respondent.

Accordingly, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for grant of pay scale, which was extended to the 5th respondent, who is his junior and complete the exercise of granting pay scale, rectify the pay anomaly and gratuity within a period of two

months from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.GANGA RAO

10th August, 2018
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