

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL NO.917 OF 2018

J U D G M E N T

(Per Hon'ble Sri Justice Sanjay Kumar)

The State of Telangana and its officials are in appeal aggrieved by the order dated 23.01.2018 passed by a learned Judge of this Court allowing W.P.No.42603 of 2016. The said writ petition was filed by the respondent herein assailing the action of the authorities in denying him promotion to the post of Assistant Director on the ground that he did not put in the required service of five years in the feeder category by erroneously interpreting G.O.Ms.No.4 dated 05.01.2016 and G.O.Ms.No.345 dated 02.09.2016. The learned Judge took note of the fact that the respondent-writ petitioner was aspiring for the post of Assistant Director from the feeder category of Superintendent and his request for such promotion was denied, *vide* Memo dated 23.11.2016 issued by the Additional Director of Industries, Government of Telangana.

Promotion to the post of Assistant Director is governed by the Andhra Pradesh Industrial Service Rules notified *vide* G.O.Ms.No.188 dated 29.04.1993 (*hereinafter*, 'the said Rules'). Rule 3 of the said Rules stipulates that the post of Assistant Director may be filled up either by direct recruitment or by appointment by transfer of Industrial Promotion Officers in the Industries Subordinate Service or by appointment by transfer of Superintendents in the Andhra Pradesh Ministerial Service of the Department. Rule 7 of the said Rules prescribes that the minimum service to be rendered by a Superintendent to be eligible for consideration for promotion to the post of Assistant Director is five years. However, *vide* G.O.Ms.No.230 dated 31.05.2014, an *ad hoc* rule was introduced stipulating

a minimum service of three years in the feeder category for promotion or appointment by transfer to the higher category. Thereafter, by G.O.Ms.No.4 dated 05.01.2016, another *ad hoc* rule was introduced stipulating a minimum period of two years of service in the feeder category for promotion or appointment by transfer to the next higher category, class or grade. This *ad hoc* rule was to be in force till 31.08.2016. G.O.Ms.No.345 dated 02.09.2016 introduced the very same stipulation by way of an *ad hoc* rule, which was to be in force up to 31.08.2017.

In terms of these *ad hoc* rules, which completely dilute the import and requirement under Rule 7 of the said Rules, a person in the feeder category is now required to put in only two years of service in that category to aspire for promotion to the next higher category, class or grade, be it by promotion or by transfer, if consideration of his candidature is to be taken up before 31.08.2017.

This being the position obtaining, it is not open to the State to interpret the *ad hoc* rules by introducing something new into it. Learned Government Pleader would endeavour to do so by insisting that these *ad hoc* rules would apply only to services where the required length of service in the feeder category is three years and not five years.

However, perusal of the *ad hoc* rules framed under the aforesaid G.Os. demonstrates in clear terms that there was no such stipulation. The *ad hoc* rule framed under each of these G.Os. would have to be read independently on its own and nothing can be added to or read into it.

That being so, the order of the learned Judge holding to the effect that the respondent-writ petitioner is eligible, in terms of the *ad hoc* rules, to be considered for promotion to the post of Assistant Director, does not warrant interference.

The writ appeal is devoid of merit and is accordingly dismissed reiterating the direction of the learned Judge to conduct a review D.P.C. within two months from the date of receipt of a copy of the order for consideration of the candidature of the respondent-writ petitioner for such promotion.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

27th AUGUST, 2018

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