

***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 No.28644 of 2018

Date: 24-10-2018

#Between:

A.C. Ravindran, S/o A. Chakravarthy,
Aged 59 years, Occ: Retd. Senior Assistant,
Medchal Court (Principal Junior Civil Judge),
R/o H.No.8-2-35, Market Street, Secunderabad

... Petitioner

And

The High Court of Telangana and Andhra Pradesh,
Represented by its Registrar (Administration)
High Court Buildings, Hyderabad and another

... Respondents

! Counsel for the Petitioner : Mr. Pratap Narayan Sanghi

^ Counsel for Respondents : Mrs. J. Anil Kumar

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> HEAD NOTE:

? Cases referred

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.28644 of 2018

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

Aggrieved by the refusal of the respondents to grant him the benefit of Automatic Advancement Scheme, the petitioner, who retired as Senior Assistant in the Judicial Ministerial Service, has come up with the above writ petition.

2. Heard Mr. Pratap Narayan Sanghi, learned counsel for the petitioner and Mr. J. Anil Kumar, learned standing counsel for the respondents.

3. The petitioner, while working as Senior Assistant in the Court of Junior Civil Judge, Parigi, Ranga Reddy District, was issued with a charge memo dated 17-12-2005. The charges related to impersonation and withdrawal of a huge sum of Rs.24,55,600/- in execution proceedings. Two other staff members were also proceeded against and a common enquiry was held.

4. After enquiry, the petitioner was imposed with a penalty of dismissal from service on 21-06-2007. The departmental appeal filed by the petitioner was dismissed on the administrative side on 02-04-2008.

5. The petitioner filed a writ petition in W.P.No.12084 of 2008 challenging the order of penalty. The writ petition was allowed by an order dated 14-07-2010 and the penalty of dismissal was set aside

and the matter was remanded back to the Principal District Judge, Ranga Reddy, on certain technical grounds.

6. Thereafter, the Disciplinary Authority namely the 2nd respondent passed a fresh final order dated 16-03-2011 imposing the penalty of reversion from the post of Senior Assistant to the post of Junior Assistant. It was also ordered that the interregnum period between the date of dismissal namely 31-05-2007 and the date of his rejoining duty will be treated as "*Dies Non*" for all purposes including pension.

7. Pursuant to the said order, the petitioner joined duty on 20-03-2011 and filed a statutory appeal on the administrative side as against the penalty of reversion. By the proceedings dated 01-11-2017, the appeal of the petitioner was allowed in part modifying the punishment of reversion into one of stoppage of two annual grade increments without cumulative effect and also treating the interregnum period from the date of dismissal to the date of reinstatement as "*service, for the purpose of retirement benefits but not for the purpose of salary or other monetary benefits*". The said order of penalty attained finality, as the petitioner did not challenge the same.

8. It is relevant to point out that much before the appeal of the petitioner was allowed on the administrative side by the order dated 01-11-2017, the petitioner reached the age of superannuation and was permitted to retire on 30-06-2017. Therefore, taking advantage of the order of the Appellate Authority dated 01-11-2017, the

petitioner made a claim for the grant of the benefit of the Automatic Advancement Scheme floated by the Government under G.O.Ms.No.96, dated 20-05-2011. But, the said application was returned by the 2nd respondent by a docket order dated 25-07-2018 on the short ground that as per the order passed by the Appellate Authority, the petitioner was not entitled to any service benefit other than those specifically mentioned in the order of the Appellate Authority. Challenging the docket order passed on his representation, the petitioner has come up with the above writ petition.

9. The main contention of the learned counsel for the petitioner is that under G.O.Ms.No.96, Finance dated 20-05-2011, an employee is entitled to be appointed to the Special Grade Post, carrying a scale next higher to the scale of pay of the post he was holding, after completion of six years of service. The claim of the petitioner is that he was dismissed from service by an order dated 21-06-2007, but the same was set aside by this Court in a writ petition and the matter remanded back. After remand, a fresh order of penalty was passed on 16-03-2011 reverting the petitioner from the post of Senior Assistant to the post of Junior Assistant. Accordingly, he was reinstated and he joined duty on 28-03-2011 as Junior Assistant. But his appeal against the order of reversion was allowed on 01-11-2017 with a modified penalty. Therefore, for the purpose of pay fixation, the petitioner was considered as having continued in the post of Senior Assistant with effect from 15-03-

2004. As a consequence, he claims to have become eligible for the grant of Automatic Advancement Scheme upon completion of six years namely by March, 2010. According to the learned counsel for the petitioner, this benefit cannot be denied to the petitioner, as the disciplinary proceedings initiated against him merely resulted in a minor penalty of stoppage of two annual grade increments without cumulative effect.

10. But we do not agree. The reasons are one too many. The first reason is that the order of the Appellate Authority made it clear that the period of dismissal from service from 31-05-2007 till 28-03-2011 was to be treated as *“service only for the purposed of calculation of retirement benefits.”* It was made clear that the petitioner will not be entitled to salary or other monetary benefits for the interregnum period. The operative portion of the order of the Appellate Authority reads as follows:

“Accordingly, the appeal is allowed in part, modifying the punishment to that of stoppage of two annual grade increments without cumulative effect and interregnum period i.e. from the date of dismissal of the appellant from the service as Senior Assistant i.e. on 31-05-2007 till the date of his rejoining into service as Junior Assistant in pursuance of the order dated 14-07-2010 in W.P.No.12084 of 2008 (about three years two months) is treated as continuation of service for calculation of retrial benefits. The appellant is not entitled for salary or other monetary benefits for the interregnum period.”

11. Therefore, the petitioner cannot go back on the order of the Appellate Authority, which has attained finality. In a collateral

proceeding, he cannot offset the effect of the order of the Appellate Authority.

12. The second reason is that the very object of Automatic Advancement Scheme is to provide a higher scale of pay for those who are stuck in a post without promotional avenues, for a period of six years. It is an alternative to promotion. This cannot be converted into a reward for misconduct. Under the scheme, an employee can get the benefit of Special Grade Post only upon completion of six years in a particular post. An employee, who completed 12 years, will be entitled to special promotion post scale of pay. Therefore, a person, who is entitled to promotion, but, who could not get promoted for reasons other than his own making, alone is entitled to Automatic Advancement Scheme.

13. The third reason why the petitioner cannot claim the benefit is that from 28-03-2011, the date of reinstatement into service, up to the date of his retirement namely 30-06-2017, he worked only in the reverted post of Junior Assistant. It is only after four months of his retirement from service that his appeal was allowed and he was deemed to have continued in the post of Senior Assistant. If his turn for promotion has reached during this period, he could not have been promoted. This is made clear even by the order of the Appellate Authority. Therefore, he cannot claim the benefit of Automatic Advancement Scheme.

14. Actually, the charges framed against the petitioner were so serious that he should thank his stars for having scrapped through

the skin of his teeth and escaped with a minor penalty. Therefore, we find no reasons to find fault with the decision of the respondents not to grant the benefit of Automatic Advancement Scheme.

Hence, the writ petition is dismissed. There shall be no order as to costs.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 24-10-2018

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**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE MS. JUSTICE J. UMA DEVI**

Writ Petition No.28644 of 2018

(per VRS, J.)



24th October, 2018.

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