

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

WRIT PETITION No.31296 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

Aggrieved by the dismissal of O.A.No.1257 of 2018 filed by them before the Andhra Pradesh Administrative Tribunal, Hyderabad, by order dated 29.06.2018, the applicants therein filed this writ petition. Their prayer in the said O.A. was to declare the action of the authorities in not granting minimum time scale attached to the post of Office Subordinate to them as illegal. Consequential direction was sought to grant them such benefit from the date of their entitlement in terms of G.O.Ms.No.17, Animal Husbandry, Dairy Development & Fisheries (AH.II) Department, dated 17.02.2011.

Perusal of the order under challenge reflects that the Tribunal took note of the fact that the claim of the petitioners-applicants for regularization in the Last Grade Service had been rejected on the ground that none of them had put in 240 days of service in a year. Applying the same standard to their entitlement to seek payment of the minimum time scale, the Tribunal opined that they were not eligible even for the said benefit as none of them had worked for 240 days in a year. The details set out by the Tribunal in this regard put it beyond doubt that all the petitioners-applicants rendered service long prior to 25.11.1993, the cut-off date prescribed in G.O.Ms.No.17 dated 17.02.2011, having been inducted in service in the years 1983, 1986 and 1987.

Under G.O.Ms.No.17 dated 17.02.2011, the Government took a policy decision to sanction minimum time scale, i.e., Basic Pay plus D.A., without any other benefits, as per the Revised Pay Scales-2010 to Casual Labourers/NMRs, who were working in the Animal Husbandry Department, from the date of issuance of the said order, subject to the condition that

they were working on daily wages or as NMRs and were appointed prior to the cut-off date, i.e., 25.11.1993. Significantly, the Government Order does not make any mention of a minimum of 240 days in a calendar year being put in as a condition precedent for grant of the benefit thereunder. It may also be noted that the Government of Andhra Pradesh issued G.O.Ms.No.142, Finance (HR.I-Plg. & Policy) Department, dated 27.08.2018, reiterating the very same policy.

In the light of this policy decision of the State of Andhra Pradesh, the Tribunal erred in importing a new facet into the requirements for grant of such benefit and in non-suiting the petitioners-applicants on that ground. When it is an admitted fact that all the petitioners-applicants were inducted in service long prior to the cut-off date and remained in service up to that date and beyond, they cannot be denied the benefit of G.O.Ms.No.17 dated 17.02.2011. The order of the Tribunal holding to the contrary is therefore unsustainable.

The writ petition is accordingly allowed setting aside the order dated 29.06.2018 passed by the Tribunal in O.A.No.1257 of 2018. The respondents are directed to extend the benefit of G.O.Ms.No.17 dated 17.02.2011 to the petitioners-applicants. This exercise shall be completed expeditiously and in any event, not later than six weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M. GANGA RAO, J

Date: 16.11.2018
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