

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY**

Writ Petition No.38932 of 2016

Date:18.11.2019

Between :

Mantripragada Kranthi Kumar,

.. Petitioner

And

The High Court of Judicature at Hyderabad
For the State of Telangana and
The State of Andhra Pradesh
Rep.by its Registrar (Recruitment)
High Court Building, Hyderabad
and 2 others

.. Respondents

Counsel for the petitioners

: Sri Kowturu Pavan Kumar representing
Sri Surya Balu Mahendra,

Counsel for the respondents

: Mr. Swaroop Oorilla,
Standing Counsel for R.1

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present Writ Petition is filed for:

“... declaring the proceedings of the 1st respondent vide ROC.No.15/2014-RC, dated 28.10.2016, rejecting the petitioner's representation dated.17.09.2016, for considering the candidature of the writ petitioner for selection to the post of Civil Judge (Junior Division) consequent to the relinquishment of the post by the earlier selected candidates, as being illegal, arbitrary, violative of Principles of Natural Justice and violative of Articles 14 and 21 of the Constitution of India, and consequently direct the respondents to appoint the petitioner as Civil Judge (Junior Division), under Recruitment by Transfer category pursuant to the notification No.15/2014-RC, dated 01.02.2014 and pass ...”

2) The brief facts of the case are that the petitioner had applied for the post of Civil Judge (Junior Division). After clearing the Screening Test, he attended the written examination. After qualifying in the written examination, he was called for the oral interview wherein he secured '6.40' marks and in aggregate, he has secured '43.65' marks. The petitioner was not selected to the said post as the candidate with Regd.No.992 by name Smt.G.Jyothi, secured higher marks, but she had opted 'out of the selection'. Therefore, the High Court vide notification, dated 25.01.2016, in ROC.No.15/2014-RC, had selected the next candidate in the merit list with Regd.No.975 by name Sri G.Butchaiah Sastry to the post of Civil Judge (Junior Division). Though the petitioner has secured the same marks as that of Sri G.Butchaiah Sastry i.e., 43.65, considering the age, Sri G.Butchaiah Sastry was placed above the petitioner in the merit list. But, subsequently, even the said Sri G.Butchaiah Sastry withdrew from the provisional selection list. Hence, the petitioner pleads that being the next candidate in the merit list, he should be selected to the post of Civil Judge (Junior Division) under the

Recruitment by Transfer. The representation, dated 17.09.2016, given by the petitioner was rejected by the High Court vide ROC.No.15/2014-RC, dated 28.10.2016. Aggrieved by the said decision, the present writ petition is filed.

3) Heard Sri Kowturu Pavan Kumar, the learned counsel appearing on behalf of Mr.Surya Balu Mahendra, the learned counsel for the petitioner, and Sri Swaroop Oorilla, learned Standing Counsel for respondent No.1.

4) The learned Counsel for the petitioner submits that due to opting 'out of selection' by two candidates, who were above the petitioner in the merit list, there is a clear vacancy in the post of Civil Judge (Junior Division). Hence, being the next candidate in the merit list, the petitioner should have been appointed to the post of Civil Judge (Junior Division).

5) Per contra, it is the case of the respondent that after the recruitment process was completed, the High Court has recommended 97 names of provisionally selected candidates (78 under Direct Recruitment, and 19 under Recruitment by Transfer) on 25.01.2016 to the two State Governments for issuance of appointment orders. Subsequently, on 22.08.2016, Sri G.Butchaiah Sastry, who was provisionally selected under Recruitment by Transfer, gave a representation opting out of the said selection. Therefore, the Committee appointed by the High Court decided to accept the said representation and allowed him to relinquish the said post of Civil Judge (Junior Division) under Recruitment by Transfer. The Committee further resolved that the resultant vacancy should be notified in the next notification. Moreover, on 04.08.2016, the vacancy position was placed before the Committee of Hon'ble Judges constituted for

recruitment and the same was published on 16.08.2016. Hence, the vacancies which were notified in 2014 were no longer available as they were notified in the notification of the year 2016. Therefore, no orders can be passed in favour of the petitioner.

6) Having heard the learned Counsels appearing for the parties and having perused the material available on record, we are of the opinion that the petitioner has no vested civil right, or a fundamental right to be appointed under the previous notification as he was not selected to the post. Merely because a vacancy has arisen due to the opting 'out of the selection' by the other candidates, it cannot vest any right on the petitioner in being selected. In W.P.No.18864 of 2019, a Division Bench of this Court, vide order, dated 30.08.2019, has held as under:

It is, indeed, trite to state that a person, who participates in the selection process, does not have a civil, or a fundamental right of appointment. He merely has an inchoate right of consideration. Therefore, the petitioners cannot claim that they have a civil, or a fundamental right to be appointed as the Examiner, Junior Assistant and Process Server respectively under the previous notification. Hence, the present writ petition is not maintainable under Article 226 of the Constitution of India.

7) Furthermore, the posts which could not be filled under the previous notification were included in the subsequent notification of the year 2016, as the selection process of the previous notification has been completed. Therefore, in view of the subsequent events, no orders can be passed in favour of the petitioner, as the prayer sought for in the main writ petition has become infructuous by efflux of time.

8) For the above mentioned reasons, the writ petition is liable to be dismissed; it is accordingly dismissed as infructuous.

The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. No costs.

RAGHAVENDRA SINGH CHAUHAN, HCJ

A. ABHISHEK REDDY, J

18th November, 2019
smr

