

**HIGH COURT FOR THE STATE OF TELANGANA
(Special Original Jurisdiction)**

TUESDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 43103 OF 2017

Between:

R. Srinivasa Chary, S/o R. Balakistiah aged about : 55 years Occ: Village Revenue Officer (Part-time), Alwal Cluster, Unit of Keshmpet Mandal, 0/o Tahasildar, Keshampet Mandal, Mahabubnagar District Rio Kalwakurthy, Mahabubnagar District - 509 324

...PETITIONER

AND

1. The State of Telangana rep. by its Principal Secretary, Revenue Department, Government of Telangana, Secretariat Building, Hyderabad - 500 022
2. The Chief Commissioner of Land Administration, Government of Telangana, Nampally Station Road, Hyderabad.
3. The District Collector,, Mahabubnagar Dist. Mahabubnagar - 509 001
4. The Joint Collector,, Mahabubnagar Dist. Mahabubnagar - 509 001

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus calling for the impugned order of the respondent No.3 Endorsement No. A7/1838 of 2016 dated 23-09-2017 and declare the same as illegal, arbitrary and violative of Article 14 and 16 of Constitution of India and consequently direct the respondents in general and respondent No.3 in particular to consider representation of the petitioner dated 25-07-2015 and appoint as regular V.A.O. and reinstate the petitioner first as Panchayath Secretary on time scaled of pay in view of G.O.Ms. No. 369 PR & RD (Md1.11) Dept. dated 12-12-2001, then appoint by transfer by V.R.O. with effect from 02-02-2007 in view of G.O.Ms. No. 39 Revenue (Village Administration) Department dated 11-01-2008 and fix the seniority accordingly and further promote the petitioner as Junior Assistant with all attendant benefits of service including regularization, promotion, revision of pay and release of arrears in the interest of justice.

I.A. NO: 1 OF 2017(WPMP. NO: 53457 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct respondent No. 3 to consider the reinstatement of the petitioner as Panchayath Secretary with further promotion including the post of Junior Assistant in the interest of justice.

Counsel for the Petitioner : SRI D.GOVERDHANACHARY

Counsel for the Respondents : GP FOR SERVICES-II

The Court made the following : ORDER

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.43103 OF 2017

ORDER:

Heard the learned counsel for the petitioner and learned Government Pleader for Services II.

2. This writ petition is filed to issue a writ, order or direction more particularly one in the nature of writ of Mandamus calling for the impugned order of the respondent No.3 Endorsement No.A7/1838 of 2016, dated 23.09.2017 and declare the same as illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents in general and respondent No.3 in particular to consider representation of the petitioner dated 25.07.2015 and appoint as regular V.A.O and reinstate the petitioner first as Panchayath Secretary on time scaled of pay in view of G.O.Ms. No.369 PR & RD (Mdl.II) Department dated 12.12.2001, then appoint by transfer by V.R.O. with effect from 02.02.2007 in view of G.O.Ms.No.39, Revenue (Village Administration) Department dated 11.01.2008 and fix the seniority accordingly and further promote the petitioner as Junior Assistant with all attendant benefits of service including regularization, promotion, revision of pay and release of arrears in the interest of justice.

3. **Perused the record.**
4. **A bare perusal of the order impugned of the 3rd respondent, vide proceedings No.A7/1838 of 2016 dated 23.09.2017 reads as under:**

"The attention of Sri. R. Srinivas Chary VRO (part time) Alwal Cluster of Keshampet Mandal is drawn to the reference cited. He is informed that the APAT in its orders dated 29.09.2016 in O.A.No.244 of 2016 has categorically observed that consequential benefits cannot be sight after laps of (05) years of earlier orders of Tribunal and rejected the request for appointment on full time basis.

In view of the above his request for appointment on regular basis on full time scale and also consequently benefits there is hereby negated."

5. **The Order dated 29.01.2016, passed in O.A.No.244 of 2016 by the Tribunal reads as under:**

"The applicant was working as Village Administrative Officer of Tarnikal village of Kalwakurthy Mandal as part time employee, by the time he was dismissed from service by order No.A7/5695/98 dated 17.02.1999 on the allegations of negligent, rude behavior and corrupt practices while discharging his duties as Village Administrative Officer. The applicant questioned the said dismissal order before this Tribunal in O.A.No.1334/2004. Originally the said O.A. No. 1334/2004 was dismissed for default and subsequently it was restored to file and final order was passed by this Tribunal therein allowing the said Original Application, setting aside dismissal order dated 17.02.1999. The said order was passed by this Tribunal in O.A. No. 1334/2004 on 17.08.2011. In pursuance of the said order of this Tribunal, Collector Mahaboobnagar District, after obtaining legal opinion from the

Government Pleaders and Higher Authorities, passed impugned order in proceedings No.A7/1420/2004 dated 28.08.2013, posting the applicant as Village Revenue Officer (Part time) to Alwal Cluster Unit of Keshampet Mandal in the existing vacancy. Questioning the said order dated 28.08.2013, the applicant filed this Original Application with delay. The delay condonation application in filing this Original Application was ordered on 25.01.2016.

2. This Original Application is filed for declaration that action of the 3rd respondent in passing the impugned reinstatement order dated 28.08.2013 is illegal and arbitrary in denying the applicant's service benefits of his 1st appointment in pursuance of the order in O.A.No. 1334/2004 dated 17.08.2011. Operative portion of the order in O.A.No. 1334/2004 reads as follows:

"12. Having regard to these facts and circumstances of the case and for the foregoing reasons, the orders impugned in this O.A., are clearly contrary to Rule 48 of A.P.V.A.O. Service Rules, 1990 and therefore, the same are set aside.

13. Thus, O.A is allowed. No order as to costs."

Except setting aside order dated 17.02.1999, dismissing the applicant from service, there is no further direction in that order for any consequential benefits. Therefore, the impugned order dated 28.08.2013 passed by the District Collector is in accordance with the order dated 17.08.2011 in O.A.No.1334/2004. In case the applicant wanted any consequential benefits the applicant should have approached this Tribunal in O.A.No.1334/2004 itself for the same. When they were not granted to him by the order in O.A.No.1334/2004. Now after lapse of 5 years, the applicant cannot seek the consequential benefits in this Original Application for the first time, after order dated 17.08.2011 in O.A.No.1334/2004. The question of reinstating the applicant on

full time basis in pursuance of the order in O.A.No.1334/2004 does not arise at all.

3. In the result, the original application is dismissed."

6. Paras 11 to 13 of the order dated 17.08.2011 passed in O.A.No.1334 of 2004, reads as under:

11. It is further more seen that the matter was first remanded by the Collector and subsequently by the Chief Commissioner of Land Administration. Even after remanding the matter, the Mandal Revenue Officer and the Revenue Divisional Officer have not taken care to follow Rule 48 of A.P.V.A.O., Service Rules. In fact, this Tribunal on earlier occasion in O.A.No.1329/2002 directed the Government to decide the matter on merits. I have perused the orders passed by the Government dated 29.12.2003. The said order simply narrated the factual events and dismissed the appeal on the ground that the applicant was guilty of disobedience of instruction of the superiors and misbehavior with the villagers and neglecting his duties. Even when there is no charge to that effect, the question of arriving at such a conclusion is totally without any material. Had there been any complaints against the applicant, nothing prevented the respondent authority to follow Rule 48 of A.P.V.A.O. Service Rules. The Government have also examined the matter in detail and appears to have passed orders dated 29.12.2003 on the basis of para-wise remarks submitted by the Collector. The crucial aspect of non-observance of Rule 48 of A.P.V.A.O. Service Rules has not at all been considered.

12. Having regard to these facts and circumstances of the case and for the foregoing reasons, the orders impugned in this O.A., are clearly contrary to Rule 48 of A.P.V.A.O. Service Rules, 1990 and therefore, the same are set aside.

13. Thus, O.A, is allowed. No order as to costs."

7. The Order dated 31.03.2016 of the High Court passed in W.P.No.9234 of 2016 reads as under:

"This Writ Petition is filed for a Certiorari to quash Order, dated 29-01-2016, in OA.No.244 of 2016 on the file of the Andhra Pradesh Administrative Tribunal.

After arguing the case, Mr.D.Goverdhana Chary, learned Counsel for the petitioner, requested for permission of the Court to withdraw the Writ Petition with a direction to respondent No.3 to consider the petitioner's representation, dated 25-07-2015, and take a decision thereon.

In view of the same, this Writ Petition is dismissed as withdrawn, however, with the direction to respondent No.3 to dispose of the petitioner's representation, dated 25-07-2015, if the same has been received by him, and communicate his decision to the petitioner within one month.

As a sequel to disposal of the writ petition, WPMP.No.11708 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous."

DISCUSSION AND CONCLUSION

8. The Division Bench of the High Court while dismissing W.P.No.9234 of 2016 as withdrawn vide its order dated 31.03.2016 directed the 3rd respondent to dispose of the petitioner's representation dated 25.07.2015, if the same has been received by him, and communicate the decision to the petitioner within one month.

9. This Court opines that the representation of the petitioner dated 25.07.2015 has been duly considered and orders were passed vide the impugned proceedings No.A.7/1838/2016, dated 23.09.2017. This Court is of the firm view that the order

impugned No.A.7/1838/2016, dated 23.09.2017 passed by the 3rd respondent warrants no interference in view of the specific observations of the erstwhile A.P. Administrative Tribunal in its order dated 29.01.2016 passed in O.A.No.244 of 2016 extracted at para '5' of the present order, the Writ Petition is accordingly, dismissed. However, there shall be no order as to costs.

Miscellaneous applications, if any, pending shall stand closed.

SD/-K.VENKAIAH
ASSISTANT REGISTRAR

SD

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, State of Telangana, Revenue Department, Government of Telangana, Secretariat Building, Hyderabad - 500 022
2. The Chief Commissioner of Land Administration,, Government of Telangana, Nampally Station Road, Hyderabad.
3. The District Collector, Mahabubnagar Dist. Mahabubnagar - 509 001
4. The Joint Collector, Mahabubnagar Dist. Mahabubnagar - 509 001
5. One CC to SRI D.GOVERDHANACHARY, Advocate [OPUC]
6. Two CCs to GP FOR SERVICES-II, High Court for the State of Telangana. [OUT]
7. Two CD Copies

A
KSR

BS

HIGH COURT

DATED:22/11/2022



ORDER
WP.No.43103 of 2017

~~DISMISSING THE WRIT PETITION~~
WITHOUT COSTS

as

(10) copies

MA

30/1/23