
(2001) 04 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Petition No. 25694 of 2000

Abdul Azeem

APPELLANT

Vs

District and Sessions Judge and Others

RESPONDENT

Date of Decision : 18-04-2001

Acts Referred:

Judicial Ministerial Service Rules — Rule 16

Citation : (2001) 04 AP CK 0016

Hon'ble Judges : S.R. Nayak, J;S. Ananda Reddy, J

Bench : Division Bench

Advocate : Sorram Prabhakar Reddy, for the Appellant; M. Bhaskara Lakshmi, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—The petitioner who is presently working in the unit of the District and Sessions Judge, Kurnool as Steno-typist purely on temporary and ad hoc basis has filed this writ petition assailing the notification in Dis. No. 5218/Estt-RC/2000 dated 5.9.2000 issued by the District and Sessions Judge calling for applications for appointment to the post of Steno-typist in A.P. Judicial Ministerial Service on temporary basis in the unit of the District and Sessions Judge, Kurnool to fill up the following six posts :-

From the pleadings and record placed before us it is seen that the learned District and Sessions Judge, Kurnool issued a notification dated 1.10.1996 to fill up 12 posts of Steno-typists under Rule-16 of the A.P. Judicial Ministerial Service Rules (for short the "Rules").

In response to the notification, the petitioner applied for the post of Steno-typist. The learned District and Sessions Judge after going through the selection procedure as contemplated under the Rules has prepared a list of selected candidates in the ratio of 1:5 against each vacancy in different categories and forwarded the same to the High Court for approval. The Committee of the

Hon"ble Judges of this Court considered the said panel in its meeting held on 13.11.1997 and passed the following resolution:

"Considered. In the course of discussion with the Unit Head, it is found that roster registers have not been maintained till now. It is resolved that maintenance of roster registers is mandatory and the Unit Head be requested to open roster registers for all categories of posts and submit the same to High Court by 4th December, 1997 duly fixing the existing staff against the respective roster points".

In pursuance of the said direction of the Committee, the District Judge, Kurnool prepared the roster register for all the existing staff and fixed up roster points for the vacancies available on the date of notification. Consequently, there was variation between the vacancies notified for various categories of posts and the vacancies identified as per the roster register prepared in pursuance of the directions of the Committee.

The Committee of the Hon"ble Judges in its next meeting held on 4th December, 1997 on noticing the discrepancy with regard to the notified vacancies and the vacancies arrived at as per the fixation of roster points done in accordance with their directions resolved to fill up the existing vacancies on regular basis to the extent notified and the remaining notified as well as non-notified vacancies on ad hoc basis till they are notified and filled up as per rules, making it clear to the candidates that their appointments are temporary and purely on ad hoc basis. Accordingly the learned District and Sessions Judge, Kurnool issued appointment order appointing the petitioner and another as steno-typist by his order in P.R. No. 39-A/Estt/98 dated 31.1.1998. The order reads as under:

"As per the approved list of the Hon"ble High Court and instructions issued therein the District Judge, Kurnool is pleased to issue the following orders of Steno-typists on Adhoc basis, from the waiting list on order of merit.

1. Sri K.V.R. Narasinga Rao, a selected candidate by Judicial District Selection Committee and approved by the High Court of Andhra Pradesh is appointed purely on temporary and on an Adhoc basis, as Steno-typist and posted to the Court of Junior Civil Judge, Atmakur, in the existing vacancy.
2. Sri M. Abdul Azeem, a selected candidate by Judicial District Selection Committee and approved by the High Court of Andhra Pradesh is appointed purely on temporary and on ad hoc basis, as Steno typist, and posted to the Court of Junior Civil Judge, Yemmiganur, in the place of Sri J. Malthesh Rao, a candidate not reported to duty on his posting on Ad hoc basis and whose services have been terminated.

Note:

1. The individuals should report before the concerned Presiding Officers within 7 days from the date of receipt of these proceedings along with their original general and technical qualifications, otherwise their appointment orders are

deemed to be cancelled.

2. Further they are directed to submit physical Fitness certificates issued by the Government Doctor not below the rank of Civil Surgeon.

3.They are further informed that the appointment of the individuals are purely on temporary and on Adhoc basis till the posts are filled up on regular basis after notifying the vacancies. Their services will be terminated at any time without assigning any reasons and notice and have no preferential right to claim any seniority or otherwise in this Department on termination of their services.

4.The dates of joining of the individuals should be reported to District Court, Kurnool.

Sd/- District & Sessions Judge, Kurnool

2. It cannot be gain said that a careful reading of the appointment order makes it abundantly clear that the petitioner's appointment was not against any post reserved for OC (G) candidates and his appointment was purely on temporary and ad hoc basis and against the vacancy meant for other classes. Added to this, note-3 of the appoint order makes it very clear that the appointment of the petitioner is purely on temporary and on ad hoc basis till the posts are filled up on regular basis, thereby meaning that in accordance with the Roster points after notifying the vacancies.

3. No doubt in the impugned notification two posts meant for OC (G) were also said to be filled up. Undoubtedly being a citizen of the country, the petitioner has a right to apply and to be considered by virtue of Article 16 of the constitution of India along with other candidates, but he cannot have any preference solely on the ground that under the appointment order dated 31.1.1998 he was appointed purely on temporary and Ad hoc basis by the District and Sessions Judge.

4. Sub Rule-4 of Rule 16 of the Service Rules provides that a person appointed under Rule-16 to a post born on the cadre of the service, shall not be regarded as a probationer or be entitled by reason of such appointment to any preferential claim to future appointment

5. However, the learned counsel for the petitioner would contend that it is illegal and impermissible for the learned District and Sessions Judge to appoint another temporary steno-typist in place of the petitioner, who is presently serving as temporary steno-typist on ad hoc basis. No doubt it is a well settled position in law that a temporary or ad hoc employee cannot be replaced by the Recruiting Agency by another temporary or ad hoc employee. But that Rule is not at all applicable to the facts of the present case. We say this because, the petitioner was not appointed even on temporary basis against the roster points which is meant for OC (G) candidates. His appointment is purely temporary against the roster point, which is meant for other classes of citizens. Added to this, even that appointment was also subject to a clear understanding between the contracting parties that his appointment would be terminated at any time without assigning

any reason or notice and he would be continued in service until appointments are made in accordance with Service Rules by inviting the applicants from the concerned categories. Simply because subsequent to the appointment of the petitioner, two more vacancies have arisen in the roster system for the OC (G) candidates, the Court cannot issue a direction to the Recruiting Agency to appoint the petitioner against those categories. As already pointed supra, the petitioner has to compete with the other OC (G) candidates for those two posts.

6. In the result and for the foregoing reasons, the writ petition is dismissed. No costs.