

(1989) 06 AP CK 0014

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16212 of 1986

R. Subrahmanyam

APPELLANT

Vs

District and Sessions Judge

RESPONDENT

Date of Decision : 07-06-1989

Acts Referred:

Andhra Pradesh Judicial Ministerial Service Rules, 1964 — Rule 47
Constitution of India, 1950 — Article 226

Citation : (1992) 1 ALT 632

Hon'ble Judges : K. Ramaswamy, J

Bench : Single Bench

Advocate : K. Raja Reddy, for the Appellant; C. Ramakrishna, for the Respondent

Final Decision : Dismissed

Judgement

K. Ramaswamy, J.—The petitioner was appointed as Copyist in the unit of Ananthapur district and is governed by the Andhra Pradesh Judicial Ministerial Service Rules, 1964 issued in G.O.Ms.206, Home (Courts-A) dated February 7, 1964, for short, "the Rules". Under Category 5, Division IV, in Muffassal Courts and offices of Muffassal Public Prosecutor and Government Pleaders, the appointment to the posts of Clerks (now Junior Assistants), Assistant Nazirs, Junior Superintendents of Copyists, III Grade Clerks and III Grade Typists and Steno-Typists is by way of promotion from Assistant Superintendents of Copists, Examiners, Amins, Readers and Copyists, or by direct recruitment or for special reasons recruitment by transfer from any other service. When a vacancy to the post of Typist arose, the petitioner was promoted by proceedings dated March 12, 1985 and posted to Sub-Court, Penukonda and he joined in that post on March 23, 1985. While working as such, the petitioner in his application dated August 5, 1985 has relinquished his right for promotion as typist and it was accepted by the District Judge in his proceedings dated April 2, 1986. Subsequently, when a vacancy for the post of Junior Assistant has arisen, he was promoted on August 14, 1986 and later, by proceedings dated October 1, 1986,

he was reverted. Assailing the legality of the order, the writ petition has been filed.

2. The contention of Sri Raja Reddy, learned counsel for the petitioner is that once the petitioner has been promoted as Junior Assistant on August 14, 1986 the reversion on the ground that he voluntarily relinquished his right to the post of Typist and accepted by the District Judge is not a relevant ground and therefore there is a manifest error apparent on the face of the record warranting interference. I find no force in the contention.

3. As already stated, Category 5 of Division IV provides promotion to the persons holding the posts of Copyist, etc. to the post of Junior Assistants, Assistant Nazirs, III Grade Clerks, Steno-Typists, etc. All these categories are common categories and anyone eligible for the promotional posts are entitled to be considered to any of the promotional posts. Take for instance, "A" was working as Copyist and he was sought to be promoted as a Junior Assistant/Typist but he relinquished the post of Junior Assistant and he seeks for promotion as Steno-Typist. " The question is whether the relinquishment to the post of Junior Assistant would operate as an impediment for consideration afresh to the post of Steno-Typist? I find that it operates. The reasons are obvious. If a candidate is given a choice to opt for promotion to a particular post then it is always open to the individual to manage to relinquish the post which is inconvenient to him and to opt a post which is more lucrative and beneficial. It amounts to utter indiscipline and anarchy. Here, the posts of Junior Assistants, Assistant Nazirs, Typists, Steno-Typists are collection of equivalent posts from common source and every eligible person is to be considered to any one thereof. The relinquishment to any one of the posts, by necessary implication, amounts to relinquishment to other posts also in this category. It is no doubt true, as relied on by Rule 47, it is open to the claimant to relinquish to any post and it is open to the authority to accept or refuse to accept it. But it is only a privilege given to the employee and officer. Once he opts his right under Rule 47, the parameters are to be considered only under Category 5 of Division IV. In the light of the reasons given above, the option once exercised relinquishing his right to one of the posts in Category 5 of Division IV, by necessary implication, it amounts to relinquishment to other posts as well. Therefore, he is not eligible to be considered to the other posts of Category 5. Thereby, the promotion of the petitioner as Junior Assistant is obviously illegal one and that was rectified by the impugned proceedings. Thereby there is no manifest error apparent on the face of record warranting interference. The writ petition is accordingly dismissed. No costs. Advocate's fee Rs. 350/-.