
(2014) 11 AP CK 0002
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 186 of 2006

T. Srinivasu

APPELLANT

Vs

Acharya N.G. Ranga Agricultural University

RESPONDENT

Date of Decision : 06-11-2014

Acts Referred:

Citation : (2014) 11 AP CK 0002

Hon'ble Judges : L.N. Reddy, J;Challa Kodanda Ram, J

Bench : Division Bench

Advocate : O. Manohar Reddy, Advocate for the Appellant; T. Durga Reddy, SC, Advocate for the Respondent

Judgement

L. Narasimha Reddy, J.—The unsuccessful petitioners in W.P. No. 12495 of 2004 filed this writ appeal feeling aggrieved by the order dated 24.06.2005 passed by the learned Single Judge.

2. Briefly stated, the facts are as under:

The appellants joined the services of the 1st respondent University, in the year 1987, as Junior Assistants-cum-Typists. The respondents 2 to 6, on the other hand, joined as Lower Division Stenographers between 1991 and 1995. While the promotion from the post of Junior Assistant is to the post of Upper Division Clerk (U.D.C), the promotion from the post of Lower Division Stenographer is to the post of Upper Division Stenographer (U.D.S.). The appellants were promoted as Senior Assistants on 19.07.1999 on clearing the Accounts Test. While the 2nd respondent was promoted as U.D.S. on 28.08.1996, the respondents 3 to 6 were promoted to that post on 08.12.1998.

3. The University framed "Andhra Pradesh Agricultural University Ministerial Service Regulations, 1981 (for short "the Regulations")" prescribing the service conditions of the ministerial staff. The post of U.D.C. and U.D.S. figure the Category-II, whereas the superior posts of Superintendents and Special Category Stenographers occur in Category-I. Regulation 6(4)(iii) of the Regulations

provides for an option for a U.D.S. to move to the post of U.D.C. The respondents 2 to 6 are said to have exercised such option and the 1st respondent accepted the same. The orders of conversion were passed on 17.02.2004.

4. The Regulation is to the effect that on being converted as U.D.C., the U.D.S. would take his seniority from the date of his appointment to the post of U.D.S. The result was that though the date of initial appointment or entry into service by the respondents 2 to 6 was several years after the entry of the appellants into service, the respondents 2 to 6 became seniors in the post of U.D.C. and the chances of the appellants for promotion to the post of Superintendent became diminished. It is under these circumstances that the appellants filed the writ petition, challenging the Regulation 6(4)(iii) of the Regulations and for consequential reliefs in the form of setting aside the order dated 17.02.2004, through which the respondents 2 to 6 were converted as U.D.Cs.

5. The appellants pleaded that even if the respondents 2 to 6 have moved from the post of U.D.S. to the post of U.D.C., they should take the date of entry into that post i.e., U.D.C. and not any date earlier thereto.

6. The writ petition was opposed by the 1st respondent as well as the respondents 2 to 6 by filing separate counter affidavits. They pleaded that there is no element of promotion or appointment by transfer involved when any U.D.S. moves to the post of U.D.C. and that the Regulations cannot be found fault with.

7. Learned Single Judge dismissed the writ petition by the order under appeal.

8. Heard Sri O. Manohar Reddy, learned counsel for the appellants, and Sri T. Durga Reddy, learned counsel for the 1st respondent. None appeared for the respondents 2 to 6.

9. In the Ministerial Service Regulations, the post of Superintendents and the post of Special Category Stenographers occur in Category-I and the post of U.D.C. and U.D.S. occur in Category-II. The U.D.C., on the one hand, and U.D.S., on the other, are different and separate. In the table appended to the Regulations dealing with the method of appointment to various categories and posts, the following occurs in relation to Category-II:

10. From this, it becomes clear that a person, who is promoted as U.D.S., is given an option to move to the post of U.D.C. Though the word "transfer" is used, it is not appointment by transfer, which involves movement of a person in the lower category to a higher category, otherwise than through promotion or direct recruitment.

11. The movement of an employee from a lower category to a higher category can occur either through promotion or by transfer. In either case, he will become the member of the higher category only from the date of his entry. In contrast, if the movement of an employee is from one class to another class in the same category, the situation would be different. The date of entry into the category

would remain the same irrespective of the movement from one class to another. Viewed in this context, the date of entry of a U.D.S. would continue to remain the same even after he moves to the post of U.D.C. and that becomes relevant for reckoning his seniority in the post of U.D.C. also.

12. The grievance of the appellants was mostly on the basis of the respective dates of their entry into service of the University, on the one hand, and those of the respondents 2 to 6, on the other hand. It is a well known fact that the timing, at which an employee gets promotion, would depend upon the channels that exist there-for, as well as the number of vacancies. For a particular category, the promotional avenues may be less and, for other categories, it may be bright. Once employees from a particular category reach a superior category, the date of their initial appointment becomes insignificant. The seniority in the category must be reckoned from the date of entry into it, and not on the basis of the entry into service of the Organization as such.

13. Learned Single Judge has taken correct view of the matter and learned counsel for the appellants is not able to convince us that the Regulation that is challenged in the writ petition suffers from any illegality or that it is opposed to any specific provision of law.

14. The Writ Appeal is, accordingly, dismissed. There shall be no order as to costs.

15. The miscellaneous petitions, if any, filed in this appeal shall stand disposed of.