
(2002) 04 AP CK 0086

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13673 of 1995

Vadigarraajji Doddaiah

APPELLANT

Vs

District and Sessions Judge, West Godavari District, Eluru

RESPONDENT

Date of Decision : 18-04-2002

Acts Referred:

Citation : (2002) 3 ALD 756 : (2002) 3 ALT 781

Hon'ble Judges : Ar. Lakshmanan, C.J;Gopala Krishna Tamada, J

Bench : Division Bench

Advocate : K.V. Narasimha Murthy, for the Appellant; P. Ravi Prasad, for the Respondent

Final Decision : Dismissed

Judgement

Dr. Ar. Lakshmanan, C.J.—Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

2. The petitioner was first appointed as Junior Assistant in the Special Court under the Essential Commodities Act at Anantapur (for short "the Special Court") vide proceedings of the Special Judge for E.C. Act Cases in Dis No. 620, dated 3-11-1986; Pursuant to the said proceedings the petitioner joined duty as Junior Assistant and continued till 28-2-1989 on which date the Special Court was abolished. In other words, the Special Courts at Nizamabad, Anantapur and Nellore ceased to function from 28-2-1989. Consequent upon such abolition the employees including the petitioner herein working in those special Courts were discharged from service resulting in unemployment to them. Some of the discharged employees made representations and some of them had filed writ petitions also seeking to consider their cases on humanitarian grounds. Though the said posts were purely temporary and in the event of abolition of the said special Courts the High Court was not bound to provide alternative employment to them, however, out of humanitarian consideration, the High Court, having ascertained the vacancy position in various Courts, issued the proceedings in Roc. No. 981/89/C1, dated 29-4-1989 with a view to provide employment to the

extent possible to such of those persons who were thrown out of employment consequent upon abolition of the special Courts. It is seen from the above proceedings of the High Court dated 29-4-1989 that the High Court had by then adjusted 30 such discharged employees in various Courts in the State and about 21 persons viz., 4 L.D. Clerks and 17 Attenders were yet to be accommodated. While so, four special Courts in Guntur, Krishna, West Godavari and East Godavari Districts were constituted for trial of offences committed in the wake of murder of a Member of Legislative Assembly in Vijayawada. As the posts sanctioned to the said Courts were yet unfilled the High Court thought it expedient to accommodate the above 21 persons in the said four special Courts and accordingly issued the proceedings dated 29-4-1989 with the following conditions with respect to their appointment:

1. The appointments are purely temporary and are liable to be terminated without prior notice.
2. The appointments are fresh and the services of the candidates rendered in the Courts that were abolished cannot be taken into consideration for purposes of seniority.
3. The candidates to be appointed will be junior-most in their respective cadres wherever they are appointed; and
4. These candidates will not have any right to question that their junior who was appointed in some other unit was promoted in course of time to a higher post earlier to them or a person junior to them in the Court where they worked together is being continued while their services were terminated in view of their appointments in different units.

3. Pursuant to the said proceedings of the High Court dated 29-4-1989 the District and Sessions Judge, West Godavari appointed the petitioner herein as Junior Assistant by his proceedings dated 24-5-1989 and posted the petitioner to act as Junior Assistant in the Court of the II Additional Sessions Judge, Eluru which was constituted to try the offences committed in the wake of the murder of the Members of Legislative Assembly. The petitioner joined the services on 25-5-1989 and continued in service till that Court was abolished. Consequent upon the abolition of the said Court the petitioner was transferred and posted as Junior Assistant in the Court of Senior Civil Judge, Tanuku vide proceedings of the District and Sessions Judge, dated 12-9-1990 and the petitioner joined in the Court of Senior Civil Judge, Tanuku on 19-9-1990.

4. According to the learned Counsel for the petitioner, the petitioner was appointed through Employment Exchange and that there is no break in service except that he awaited positing orders for a period of two months i.e., from 20-2-1989 to 25-5-1989 consequent upon abolition of the special Court at Anantapur and for want of vacancies. According to him the said period has to be treated as on leave. It is further submitted that the service rendered by him in the special Court at Anantapur for a period of two years and three months and

25 days has to be tagged on to the service rendered by him in West Godavari District. He has also submitted that the petitioner is not claiming seniority over anybody in the West Godavari unit and that since the petitioner was appointed as per rules and in protected under paragraph 4 of G.O. Ms. No. 193, dated 14-3-1990 and that the persons similarly placed like the petitioner were given the benefit under the said Government Order, the petitioner is also entitled for regularization of his services.

5. Counter-affidavit is filed denying the allegations made in the writ affidavit. It is submitted that the initial appointment of the petitioner in the special Court at Anantapur is only on temporary basis and is liable to be terminated at any time without any prior notice or assigning any reasons vide proceedings of the special Court in Dis. No. 620, dated 3-11-1986 and consequent upon the abolition of the Special Court his service was terminated on the afternoon of 29-2-1989. The petitioner was also informed in the proceedings dated 24-5-1989 of the District and Sessions Judge, West Godavari that he is appointed afresh and the service rendered in the special Court cannot be taken into consideration for the purpose of seniority. When once the service of the petitioner was terminated the question of awaiting posting orders does not arise and hence the contention of the petitioner that he was awaiting positing orders is not tenable.

6. The learned Counsel for the petitioner submitted that the petitioner is entitled to the benefit under G.O. Ms. No. 193, dated 14-3-1990 which was issued to regularize the services of daily wage employees subject to the conditions contained in paragraphs 4 and 5 thereof.

7. In our opinion, the said contention is not tenable since this Court in its circular Roc. No. 1195/88-C-IV, dated 21-7-1992 categorically instructed all the unit heads to regularize the services of Junior Assistants, steno-typists, typists appointed otherwise than by direct recruitment strictly in accordance with rules and following the ratio of 3:1 and the said Government Order is not applicable in the instant case. It is further seen that the petitioner is not entitled to claim any relief by invoking the extraordinary jurisdiction of this Court since the unit heads have acted in accordance with the instructions given by this Court in its circular mentioned supra. The Government issued G.O. Ms. No. 193, dated 14-3-1990 to regularize the services of all temporary Government employees who were appointed by direct recruitment between 2-1-1986 and 1-8-1989 and continuing as such as on the date of issue of the said Government Order subject to fulfilling the conditions mentioned in paragraphs 4 and 5 thereof. According to condition 4(8) the said Government Order shall be applicable only in cases where temporary/casual appointment was authorized by the Government specifically in relaxation of ban on appointment and according to condition 4 (10) the candidates should have been appointed through Employment Exchange or where in cases covered by G.O. Ms. No. 1261, dated 8-4-1984, the Employment Exchange was notified of the vacancy and advertisement was made in papers and selection was made on merits. In the instant case no order in relaxation of

the ban on appointment was obtained from the Government nor the petitioner was sponsored by the Employment Exchange. The petitioner was appointed on his application as per the directions of the High Court. Further, since the petitioner is working on temporary basis, the A.P. Public Service Commission is addressed every quarter for his continuance till an approved candidate is allotted.

8. We have already noticed the conditions mentioned in the proceedings of the High Court dated 29-4-1989. It is thus seen that the appointment of the petitioner is purely temporary and is liable to be terminated without prior notice. Secondly, the services of the candidates rendered in the Courts that were abolished cannot be taken into consideration for the purpose of seniority. The candidates appointed pursuant to the said proceedings dated 29-4-1989 will be junior- most in the respective cadres where they are appointed and that they have no right to question that their juniors who were appointed in some other unit were promoted in course of time to a higher post earlier to them or a person junior to them in the Court where they worked together is being continued while their services were terminated in view of their appointments in different units.

9. The petitioner with his eyes wide open has accepted the appointment in West Godavari. Once the petitioner accepted the conditions imposed in the proceedings of the High Court dated 29-4-1989 he cannot turn round and contend that his appointment cannot be treated as temporary and that his service rendered in the special Court at Anantapur for a period of about 2 years has to be tagged on to the service rendered in West Godavari. In our opinion the petitioner is not entitled to any relief in this writ petition. Accordingly the writ petition fails and is dismissed. No costs.