

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

MONDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO. 170 OF 2020

Between:

- 1) D. Anthoniamma W/o. Late Mathew
aged about 60 years, Occ: Ex. WHG No.1785,
R/o. H. No. 3-53/75, New Gandhi Nagar,
Ramakrishnapuram, Hyderabad.
- 2) Kesari Narasimha Rao S/o.
aged about 66 years, Occ: Ex. HG No. 3003,
R/o. H. No. 3-16-106/14/396, Venkatreddy Nagar,
Ramanthapur, Hyderabad-13.
- 3) G. Balaiah S/o. Bal Narsaiah,
aged about 60 years, Occ: Ex. HG.No. 3011,
R/o. Amberpet, Hyderabad.
- 4) V.Venkata Chary S/o. Janakiram Chary,
aged about 61 years, Occ: Ex. HG No. 1902,
R/o. H. No. 4-1-178, Troop Bazar,
Hyderabad.
- 5) S. Balachandrudu S/o.
aged about 63 years, Occ: Ex. HG No. 6469,
R/o. H. No. 2-3-645/A/241, Premnagar,
Amberpet, Hyderabad.
- 6) D. Muttiah S/o. D. Ambasailu,
aged about 64 years, Occ: Ex. HG No. 364,
R/o. H. No. 14-73/A16, Annaram Road,
Thorur village & Mandal, Warangal District.
- 7) Rahemuth Pashu (Baba) S/o. Shaik Mahabub Ali,
aged about 62 years, Occ: Ex. HG No. 1182,
R/o. H. No. 1-6-159/4, Giriprasad Nagar Colony,
Mahaboobabad (V&M) and District.
- 8) C. Hanumanthu S/o. Balappa,
aged about 63 years, Occ: Ex. HG No. 3130,
R/o. H. No. 2-3-647/B/159,
Amberpet, Hyderabad.

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- 9) Rajeshwar S/o. Thayappa,
aged about 65 years, Occ: Ex. HG No. 3128,
R/o. H. No. 2-3-662/2/4, Premnagar,
Amberpet, Hyderabad.
- 10) A.Gangamma W/o. Late Mallesh,
aged about 60 years, Occ: Ex. WHG No. 1768,
R/o. H. No. 24-67, Arundathi Nagar,
Jawahar Nagar, Secunderabad.
- 11) N. Ranga Reddy S/o. Ram Reddy,
aged about 63 years, Occ: Ex. HG No. 5231,
R/o. H. No. 8-146, Thimmapur Village,
Amakur Mandal, Nalgonda District.
- 12) Burri Parushuram Reddy S/o. Malla Reddy,
aged about 62 years, Occ: Ex. Home Guard,
R/o. H. No. 2-21, Nandigama Village & Mandal,
Mahabubnagar District.
- 13) D. Laxmajiah S/o. Yellaiah,
aged about 65 years, Occ: Ex. HG No. 6138,
R/o. H. No. 22-40, Nethaji Colony,
Farooqnagar (V&M), Ranga Reddy District.
- 14) V. Chandrashekar S/o. V. Pentaiah,
aged about 62 years, Occ: Ex. HG No. 2085,
R/o. Amberpet, Hyderabad.
- 15) G. Madan Mohan S/o. G. Veeraiah,
aged about 65 years, Occ: Ex. HG No. 5431,
R/o. H. No. 18-7-658/18/A, Ayodhya Nagar,
Bandlaguda, Hyderabad.
- 16) C. Sreechand S/o. Changamahala,
aged about 64 years, Occ: Ex. HG No. 5012,
R/o. H. No. 20-2-698/200, Button Factory,
Bahadurpura, Hyderabad.
- 17) Md. Zainulabuddin S/o. Md. Ismail
aged about 63 years, Occ: Ex. HG No. 2046,
R/o. H. No. 1-74, Chitkal Village and Mandal,
Medak District.

...Petitioners

AND

- 1) The State of Telangana,
Rep. by its Principal Secretary,
Home Department,
Secretariat, Hyderabad.

2. The Director General of Police, Telangana State, Telangana, Office at Lakdikapul, Hyderabad.
3. The Inspector General of Police, Home Guards, Telangana, Office at Lakdikapul, Hyderabad.
4. The Commissioner of Police, Hyderabad City, Hyderabad.
5. The Commandant, Home Guards, Hyderabad, Office at Goshamahall, Hyderabad.

...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 an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in retiring the petitioners as home guards on their attainment of age of 60 years without providing any retirement benefits like payment of provident fund and gratuity and other retirement benefits like any other Government employees, is illegal, unlawful, contrary to law and consequently direct the respondents to continue the petitioners as home guards in Police Department without there being any age of superannuation and as long as the petitioners are mentally and physically fit to discharge their duties as home guards or the petitioners ought to be retired on attainment of age of 60 years, the respondents shall provide the retirement benefits to them like any other Government employees.

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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 grant interim order directing the respondents to continue the petitioners as home guards in Police Department without restricting 60 years of the age of superannuation for the said post as long as they are medically and mentally fit to discharge their duties as home guards, pending disposal of main Writ Petition.

Counsel for the Petitioners: SRI M. DAMODAR REDDY

**Counsel for the Respondents: SPECIAL GOVERNMENT PLEADER FOR
GP FOR HOME**

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.170 of 2020

ORDER:

This writ petition is being disposed of at the admission stage with the consent of learned counsel for the respective parties.

This Writ Petition is filed seeking the following relief:

"... to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in retiring the petitioners as Home Guards on their attainment of age of 60 years without providing any retirement benefits, like payment of Provident Fund and Gratuity and other retirement benefits like any other Government employees, is illegal, unlawful, contrary to law, and consequently, direct the respondents to continue the petitioners as Home Guards in Police Department without there being any age of superannuation and as long as the petitioners are mentally and physically fit to discharge their duties as Home Guards or the petitioners ought to be retired on attainment of age of 60 years the respondents shall provide the retirement benefits to them like any other Government employees and pass such other order or orders ..."

Heard Sri M. Damodar Reddy, learned counsel appearing for the petitioners, and the learned Special Government Pleader appearing for the respondents.

It has been contended by the petitioners that they are all appointed as Home Guards on various dates and they are discharging their duties to the utmost satisfaction of their superiors and everyone concerned. The grievance of the

petitioners is that all the petitioners were retired from service on attaining the age of superannuation at the age of 60 years and they had contended that the respondents are selectively continuing some of the employees in service beyond 60 years and arbitrarily retired the petitioners on attaining the age of 60 years. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioners has drawn attention of this Court to the proceedings dated 15.03.2017 passed by respondent No.5, wherein he has pointed out several employees at Sl.Nos.24, 25, 26, 27 and 28 and several other instances where the persons were continued as Home Guards beyond the aged of 60 years, which action of the respondents in retiring the petitioners on attaining the age of 60 years, is an arbitrary exercise. Therefore, learned counsel for the petitioners submits that appropriate orders be passed in the writ petition directing the respondents to continue the petitioners as Home Guards beyond the age of 60 years, as was done in respect of several other individuals vide proceedings dated 15.03.2017.

On the other hand, the learned Special Government Pleader appearing for the respondents had contended that some of the persons, who were earlier continued, are not asked to continue in service beyond the age of 60 years and as on today and none of the Home Guards are continued beyond 60 years in the entire State of Telangana.

Moreover, the learned Special Government Pleader submits that Section 5 of the Telangana Home Guards Act, 1948 (for brevity "the Act") reads as under:

"5. Period of service and discharge:

A Home Guard shall be bound to serve the State Government for such period and in such areas, as may be prescribed, but he may be discharged at any time by such *(Constitution of Home Guards and appointment of officers. Appointment and removal of Home Guards. Period of service and discharge.)* [Act No.1 of 1948]³ authority and subject to such conditions as may be prescribed.

³3. Substituted for original section by Section 3 of and the Schedule to the Andhra Pradesh Extension of Laws Act, 1958 (Andhra Pradesh Act XXIII of 1958)"

Learned Special Government Pleader had contended that such prescription is made in the Police Manual. Part-I, Volume-3, Standing Order No.936.6 states that a Home Guard has to serve the Department for a minimum period of three years and his services can be extended upto the age of 60 years and as per the Police Manual Standing Orders, Home Guards are not entitled to continue beyond the age of 60 years. The learned Special Government Pleader, therefore, contends that there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that Section 5 of the Telangana Home Guards Act specifically states that the Home Guards should be continued as per the prescription made in the said Act and how the Home Guards should be continued is specifically stated in the Police Manual, Part-I, Volume-3, Standing Order 936.6, which clearly states that the Home Guards are not entitled to be continued beyond the age of 60 years. As per the said Standing Orders, it is apparently clear that the Home Guards shall be continued upto the age of 60 years and they should not be continued beyond the age of 60 years. Therefore, continuation of the petitioners beyond the age of 60 years is untenable and the same cannot be accepted. Therefore, this Court is not inclined to interfere in the case of the petitioners and grant the relief of continuing them as Home Guards beyond the age of 60 years and the writ petition is liable to be dismissed and it is accordingly dismissed. No order as to costs.

Miscellaneous petitions, pending, if any shall stand closed.

//TRUE COPY//

SD/-K.VENKAIAH
ASSISTANT REGISTRAR
SECTION OFFICER

- To,
1. One CC to Sri M. Damodar Reddy, Advocate [OPUC]
 2. Two CCs to GP for Home, High Court for the State of Telangana at Hyderabad, [OUT]
 3. Two CD Copies.

MP



HIGH COURT

DATED:30/11/2020



ORDER

WP.No.170 of 2020

DISMISSING THE WRIT PETITION
WITHOUT COSTS

5^{ssv} copies
Dt 16/12/2020