

THE HON'BLE Dr.JUSTICE K. MANMADHA RAO

WRIT PETITION Nos.18303 of 2019 and 3648 of 2021

COMMON ORDER :

Writ Petition No. 18303 of 2019 is filed under Article 226 of the Constitution of India, claiming the following relief:

“.....Issue an order or direction more particularly one in the nature of Writ of Mandamus, declare the in action of the respondents Nos. 3 and 4 in not giving promotion to the petitioners to the post of Village Revenue Officers from Village Revenue Assistants by considering the petitioners promotion from back date Dt.02.08.2018 the petitioners juniors were considered for promotion in spite of rectifying the mistakes committed in fixing the seniority list dated 22.12.2017 by refixing the petitioners seniority prepared for all the eligible VRAs for promotion to the post of VROs placing the petitioners in Sl.No.28 and 29 from 88 and 89 in the seniority list dated 22.12.2017 as illegal, arbitrary, violation of fundamental rights guaranteed under the Article 16 of the Constitution of India and Consequently direct the Respondents No. 3 and 4 to give promotions to the petitioners to the post of Village Revenue Officers from the post of Village Revenue Assistants by considering the petitioners promotion from back date Dt. 02.08.2018 the petitioners juniors were considered for promotion shown from Sl.No.30 of Seniority list shown in the seniority list Dt. 08.08.2019 along with all monitory benefits since 02.08.2018 and pass such other orders.”

Writ Petition No.3648 of 2021 is filed under Article 226 of the Constitution of India, claiming the following relief:

“.....Issue an order or direction more particularly one in the nature of Writ of Mandamus, to declare the action of the respondents Nos. 3 and 4 in not considering the petitioners for subsequent promotions arose to the post of Village Revenue Officers Gr.II, after the promotions they challenged in W.P.No.18303 of 2019 on the ground that the writ petition W.P.No.18303 of 2019 filed by the petitioners is pending on the file of this Honorable Court which was filed to direct the Respondents No.3 and 4 to give promotions to the petitioner to the post of Village Revenue Officers Gr.I as petitioners juniors were considered

for promotion though they were juniors to the petitioners shown from Sl.No.30 of Seniority list Dt.08.08.2019 as illegal, arbitrary and violation of Fundamental Rights of the Constitution of India and consequently direct the Respondent No. 3 and 4 to consider the petitioners for promotion to the two posts of VRO Gr-II which are kept vacant for the petitioners on par with the candidates considered shown in REV-ASECOPRM (VRO)/1/2019-JA(A4)-COLLKRN, Dt.05.12.2020 for Gr.II by the Respondent No.3 implementing the interim orders passed in I.A.No.1 of 2020 in W.P.No 2031 of 2020 without waiting for the decision of the writ petition W.P.No. 18303 of 2019 and to grant such other relief or reliefs as this Honorable Court deems fit and proper in the Circumstances of the case.”

2. Since the facts and issue involved in both the writ petitions is one and the same, I find it expedient to decide both the matters by common order.

3. For the sake of convenience, W.P.No. 3648 of 2021 is taken as leading case.

4. Heard Mr. M. Murali Lincoln, learned counsel for the petitioners and learned Government Pleader for Services-I for the respondents.

5. The brief case of the petition in W.P.No. 3648 of 2021 is that the petitioners were appointed as Tallari / VRA by the then 5th respondent and their services were regularized permanently. The 3rd respondent vide proceedings dated 22.12.2017 prepared Inter Seniority List of Village Revenue Assistants in Kurnool District as on 26.10.2017 by taking into consideration date of joining of into service for all the VRAs into service, except petitioners. The petitioners submitted their objections against the Seniority List dated 22.12.2017 stating that their seniority should be considered from the date of

joining into service as Village Revenue Assistant dated 04.03.2006 not from the date of order dated 02.12.2008, but the 3rd respondent without rectifying or omitting the mistakes committed in the Seniority List dated 13.06.2018 inspite of their representations issued proceedings for filling up of vacant promotions posts of Village Revenue Officer, Grade-I by way of appointment by transfer from the cadre of Village Revenue Assistants to the Village Revenue Officers Cadre vide proceedings dated 02.08.2018. Assailing the said order the petitioners filed O.A. In the meanwhile the 3rd respondent directed the 4th respondent to verify the records and rectify the mistake in the seniority list. Therefore the petitioners not pressed the O.A. The 3rd respondent rectified the mistake in the seniority list and shown the name of the petitioners as 28 and 29 by taking date of joining into service from 04.09.2006. But the 3rd respondent issued promotion vide order dated 02.08.2018, as such the juniors of the petitioners are continuing in given promotions. Therefore the petitioners made several representations and later filed W.P.No.18303 of 2019 for the relief as cited supra.

6. While the matter stood thus, some of them got appointment on the ground of their father's ill health filed W.P.No.20391 of 2020 and this Court issued interim direction that the "*petitioners have been languishing in the same posts for nearly two decades and it is just and appropriate for them to make such requests is made in the present petition. If such request is circumscribed by the necessity to take into consideration objections, if any with reference to promotion of these petitioners as per the above list, it augers well*". With the said finding,

this Court directed the 3rd respondent to take necessary steps to fill up the posts of Village Revenue Officers Grade-II as per existing seniority list dated 31.07.2020. In view of the same, the petitioners also entitled for promotion. In view of the inaction on the part of the respondents, the present writ petition came to be filed.

7. *Per contra*, 3rd respondent filed counter affidavit denying all material allegations made in the writ petition and mainly contended that pursuant to the orders of the learned Tribunal in O.A, an endorsement has been issued to the petitioners vide Rc.No.A4/1559/2017, dated 27.09.2018. Further it is contended that A.P.State Direct Recruitment VRAs Association, Kurnool District filed an objection dated 16.08.2019 regarding the seniority of the petitioners. Accordingly an enquiry was initiated and the enquiry report shows that as per available records the petitioners appointed on 04.03.2006 respectively by the then Tahsildar on temporary basis vide reference dated 02.12.2008 stating that they have been appointed in existing vacancies. Therefore there is a gap of about 2 years and 9 months.

8. It is further contended that as per available records the petitioners appointed on 04.03.2006 respectively by the then Tahsildar on temporary basis due to their father's ill health. Further they have been appointed on permanent basis vide reference dated 02.12.2008 stating that they have been appointed in existing vacancies. In the temporary appointment orders of the both V.R.As period was not mentioned and permanent appointment given after above 2 years and 9 months, there is no approval of CCLA for the

exceeding period of two years of both cases. Therefore is ban an order under Act 2/1994 in force at the time of permanent appointment. The appointment of Village Servants even in the leave vacancies/ on out sourcing can be treated as regular as per CCLAs ref.No.A2/550/2008, dated 02.04.2011 only compassionate appoints are valid. Therefore the petitioners are not entitled to claim relief as sought for.

9. During hearing learned counsel for the petitioners reiterated the contents urged in the writ affidavit; whereas learned Government Pleader placed on record the written instructions dated 02.03.2022 from the office of District Collector, Kurnool, wherein it is stated that the seniority of two writ petitioners was not finalized since the petitioners have filed W.P.No.18303 of 2019 before this Court. Hence the seniority of the individuals would be considered as per outcome of the orders of this Court.

10. It is apparent on the face of the record that the petitioners have appointed on 04.03.2006 respectively by the then Tahsildar on temporary basis due to their father's ill health. Further they have been appointed on permanent basis vide reference dated 02.12.2008 stating that they have been appointed in existing vacancies. Therefore, it is made clear that the petitioners their services were regularized vide Rc.No.1050/2008, dated 02.12.2008 by the 5th respondent counting the past temporary service also. Further learned counsel for the petitioners would contended that the name of the petitioners were shown at Sl.No.88 and 89, if their past temporary services were counted as per service rules from the date of joining into

service as Village Revenue Assistants, the petitioners be placed at Sl.No.28 and 29 in the Seniority List.

11. However, this Court finds that there is error committed in placing the petitioners in the Seniority List submitted by the 5th respondent. Therefore this Court inclined to dispose of the writ petitions, while directing the respondents to consider the case of the petitioners and place them in respective serials as per service rules from the date of joining into service as Village Revenue Assistants and further directed to consider the case of the petitioners for promotion to post of Village Revenue Officers, which are kept vacant for the petitioners on par with the candidates considered in REV-ASECOPRM (VRO)/1/2019-JA(A4)-COLLKRN, Dated 05.12.2020 for Grade-II issued by the 3rd respondent, within a period of four (04) weeks from the date of receipt of a copy of this order.

12. With the above direction, both the writ petitions are disposed of. No costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed.

DR.JUSTICE K. MANMADHA RAO

Date: 29.07.2022.

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