

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

**WEDNESDAY, THE TWENTY EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA

WRIT PETITION NO: 14339 OF 2019

Between:

Banja Rajkumar, S/o. B. Rajanna, Aged about 36 years, Unemployee,
R/o. Vannel (Khurd) Village, Nandipet Mandal, Nizamabad District.

...PETITIONER

AND

1. The Superintending Engineer and 3 others, GVC-1 Sri Ram Sagar Project, Pochampad, Nizamabad District.
2. The District Collector/Chairman Selection Committee, Nizamabad District.
3. The Engineer-in-Chief, I and CAD TS, Hyderabad.
4. The State of Telangana, rep. by its Principal Secretary, Irrigation and Command Area Development Department, Secretariat, Hyderabad. 500 022.

...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 a writ, order or direction more in the nature of Mandamus to declare the action of the Respondents in not considering the case of the Petitioner for appointment to the post of Junior Assistant or any other suitable post under displaced persons quota and issuing speaking orders vide Memo No. E227/NZB/1425, dt.15.06.2016, on the ground that, he had applied beyond the period of limitation as prescribed in G.O.Ms.No.98, I and AD., dt.15.04.1986 r/w Memo no. 480-R and R (2)87-2, dt. 24.08.1987 as illegal, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India and consequently set aside the same and direct the Respondents to appoint the Petitioner as Junior Assistant or in any suitable post under displaced persons quota in terms of G.O.Ms.No.98, dt.15.04.1986, r/w Memo no. 480-R and R (2)87-

2, dt.24.08.1987 irrespective of date of his application or irrespective of the limitation prescribed therein, as per the Law Laid down by this Hon'ble Court in WP No. 2436/2011 as confirmed by the Apex Court in SLP (civil) No. 14305/2011 dt. 04.07.2011, as was done in respect of similarly situated persons.

IA NO: 1 OF 2019

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 direct the Respondents to consider the case of the Petitioner for appointment to the post of Junior Assistant or in any other suitable post under displaced persons quota in terms of G.O.Ms.No.98, I and CAD., dt. 15.04.1986, r/w Memo no. 480-R&R (2)87-2, dt: 24.08.1987, irrespective of date of his application or irrespective of the limitation prescribed therein, as per the Law Laid down by this Honorable Court in WP No. 2436/2011 as confirmed by the Apex Court in SLP (civil) No. 14305/2011 dt. 04.07.2011.

Counsel for the Petitioner: SRI POODATTU AMARENDER

Counsel for the Respondents: GP FOR IRRI AND COMM AREA DEV

The Court made the following: ORDER

HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA

WRIT PETITION No. 14339 OF 2019

ORDER:

This Writ Petition is filed challenging the speaking order *vide* Memo dated 15.06.2016 and the action of respondents in not considering the case of petitioner to the post of Junior Assistant or any other suitable post under displaced persons quota on the ground that he applied beyond the period of limitation as prescribed in G.O.Ms.No.98, dated 15.04.1986 read with Memo dated 24.08.1987.

2. Petitioner's case is that their house submerged in SRSP Reservoir and they were displaced during 18.03.1978 *vide* Award No. 17/1977-98. It is stated that Government issued G.O.Ms.No. 98, dated 15.04.1986 and G.O.Ms.No. 68, dated 17.05.2014 to fill up 50% vacancies in Junior Assistant / Typists and the cadres below arising in Major and Minor Irrigation and power projects to be filled up by the displaced persons.

Petitioner states that he submitted representation to Respondents 1 and 2 on 30.09.2014 to provide appointment in terms of G.O.Ms. No. 98, on which, the revenue officials made correspondence with the 1st respondent who issued impugned speaking order informing that Selection Committee reviewed

and rejected the case on the ground that the time limit set in G.O.Ms. No. 98 and Memo dated 24.08.1987 expired long back. Again, petitioner is stated to have made representation on 02.02.1997 to the 1st respondent not to insist for time limit as per letter dated 23.05.2015 addressed by the 1st respondent wherein he referred Supreme Court orders stating that limitation will not apply for the awards passed before issuance of G.O.Ms. No. 98, dated 15.04.1986. But, so far, no orders are passed thereon.

3. The 1st respondent - Superintending Engineer filed counter stating that house property of petitioner's father was acquired for the purpose of construction of Sri ramsagar Project and compensation amount was also paid. While so, petitioner filed the subject Writ Petition seeking a direction to Respondents to consider their cases in any suitable post under displaced persons quota. The 1st respondent had issued speaking order dated 15.06.2016 stating that, petitioner is not eligible to consider for appointment under displaced persons quota, as the Government had already issued instructions *vide* Memo dated 14.05.2010 that no new Application would be received for employment from displaced persons, as the deadline set in G.O.Ms.No.98, dated 15.04.1986 and Memo dated 24.08.1987 expired long back.

According to this respondent, as per G.O.Ms.No.98, dated 15.04.1986, for securing employment under displaced persons quota, Applications from eligible candidates shall be made to the District Collector concerned within a period of one year from the date of actual displacement of the family. Preference shall be given with reference to the date of displacement and to those applicants whose houses and land are acquired. The District Collectors shall draw up a list of such Applications and forward the same to the project authorities for appointment. Further, Government in Memo dated 24.08.1987 clarified that 'period of one year' does not apply to such of the persons/families who are displaced prior to issuance of the said G.O. It is stated that Government constituted Selection Committee *vide* G.O.Ms.No.266 dated 19.09.1994 read with G.O.Ms.No.135, dated 17.11.2009 to select the candidates among the Applications received for appointment subject to other preferences/ conditions prescribed in G.O.Ms.No.98, with the following officers.

- i) District Collector concerned as Chairman
- ii) Joint Collector of the District concerned as Member
- iii) Superintending Engineer of the concerned project as Member-Convenor

Further it is also stated that Government issued instructions *vide* Memo dated 22.12.2005 which reads as follows:

“ In case of eligible displaced persons whose lands and structures acquired under Irrigation Projects prior to the issue of G.O.Ms.No.98 dated 15.4.1986 instructions were issued to the District Collectors to forward the applications of the displaced persons to the concerned authorities for appointment even though they have applied for appointment after one year of their displacement *vide* Memo. No.480-LAR(2)/87-2 dated 24.8.1987. Because, by that time, when the G.O.Ms.No.98 came into force, the displaced persons might have crossed the time bound period of one year to apply for appointment, and not to go on receiving such applications by the District Administrators/Project Administrator after elapsed period of decades”,

Since the District Collectors are receiving Applications without following cut-off date and sending the same for approval even after lapse of 20 years, the Government issued clarification in Memo dated 14.05.2010 to G.O.Ms.No.98 and Memo dated 24.08.1987. Further Government directed that all the Engineers-in-Chief/Chief Engineers of Irrigation Projects and the District Collectors to follow scrupulously the instructions for employment of the displaced persons under G.O.Ms.No.98 dated 15.04.1986.

This respondent stated that petitioner submitted representation on 10.12.2013 in terms of G.O.Ms.No.98. after

lapse of 32 years five months from the date of displacement of his father's properties.

It is stated that in similar circumstances, APAT passed orders in O.A.No. 2080 of 2013 rejecting the case of applicant therein on that ground that he made Application after a gap of about 28 years and he is not eligible for consideration as per G.O.Ms.No.98 dated 15.04.1986 read with the clarifications given *vide* Memo dated 22.12.2005 and another Memo dated 14.05.2010. The Tribunal observed that it is settled law that the Courts/ Tribunal cannot interfere in the Policy decision taken by the Government. It is brought to the notice of this Court that in ***DHAMPUR SUGAR (KASHIPUR) LTD. Vs. STATE OF UTTARANCHAL***¹, the Hon'ble Supreme Court considered the case law on the policy decision and scope of Judicial review and held as follows:

“ In our judgment, it is well-settled that public authorities must have liberty and freedom in framing policies. No doubt, the discretion is not absolute, unqualified or unfettered or uncanalised and judiciary has control over all executive actions. At the same time, however, it is well established that courts are ill-equipped to deal with these matters, decisions have to be taken by governmental authorities keeping in view several factors, and it is not possible for courts to consider competing claims and conflicting interests and to conclude which may the balance tilts. There are no objectives, justifiable or manageable standards to judge the issues nor can such questions be decided on priority considerations”

¹ (2007) 8 SCC 418

It is stated, the government has taken a conscious decision not to accept the applications after a lapse of decades and permitted the District Collectors and Project Authorities to fix up cut-off date to receive applications from this category of displaced persons and had given clarifications through Memo dated 22.12.2005 and another Memo dated 14.05.2010. It is thus clear that relaxation of cut-off date i.e. the period of limitation of one year based on the date of displacement cannot be stretched to accommodate the requests for providing jobs even after lapse of decades from the date when G.O.Ms.No.98 and Memo dated 24.08.1987 were issued. The Tribunal in the O.A. concluded that the applicant had applied for the job on 29.07.2003 i.e. after a gap of about 17 years and he is not eligible for consideration as per G.O.Ms. No. 98, dated 15.04.1986 read with clarification Memos. Finally, it is stated that this Court as well as the Hon'ble Apex Court, time and again, held that compassionate appointment cannot be claimed as a right after long lapse of time. Since in the present case, petitioner sought appointment after 32 years 5 months of acquiring house, on the ground of delay the Writ Petition is liable to be dismissed.

4. Heard Sri P. Amarender, learned counsel for petitioner as well as Ms. B. Annapurna, counsel representing learned Government Pleader for Services-I.

5. From a perusal of the material on record, it is clear that the 1st respondent issued speaking order dated 15.06.2016 stating that petitioner is not eligible to be considered for appointment under displaced persons quota, as the Government had already issued instructions *vide* Memo dated 14.05.2010 that no new Application would be received for employment from displaced persons, as the deadline set in G.O.Ms.No.98, dated 15.04.1986 and Memo dated 24.08.1987 expired long back. As per G.O.Ms.No.98, dated 15.04.1986, Applications shall be made within one year from the date of actual displacement of the family and preference was prescribed. Further, Government in Memo dated 24.08.1987 clarified that 'period of one year' does not apply to such of the persons/families who are displaced prior to issuance of the said G.O. Thereafter, Government issued instructions *vide* Memo dated 22.12.2005.6.

Since the District Collectors are receiving Applications without following cut-off date and sending the same for approval even after lapse of 20 years, the Government further clarified in Memo dated 14.05.2010 that all the Engineer-in-Chiefs/Chief Engineers of Irrigation Projects and

the District Collectors to follow scrupulously the instructions for employment of the displaced persons under G.O.Ms.No.98 dated 15.04.1986. Admittedly, petitioner submitted Application / representation on 10.12.2013 in terms of G.O.Ms.No.98. after lapse of 32 years five months from the date of displacement. Hence, his Application was rejected. It is brought to the notice of this Court that in similar circumstances, the Tribunal passed order in O.A. No. 2080 of 2013 rejecting the case of applicant therein on that ground that he made Application after a gap of about 28 years and he is not eligible for consideration as per G.O.Ms.No.98 dated 15.04.1986 read with the clarifications given *vide* Memo dated 22.12.2005 and another Memo dated 14.05.2010. The Tribunal observed that it is settled law that the Courts/ Tribunal cannot interfere in the Policy decision taken by the Government. It is also brought to the notice of this Court that in ***Dhampur Sugar (kashipur) ltd. vs. State Of Uttaranchal***², the Hon'ble Supreme Court considered the case law on the policy decision and scope of Judicial review and held as extracted supra.

6. Learned Government Pleader, in this regard, brought to the notice of this Court the order dated 03.02.2025 in Writ Petition No. 36516 of 2024 wherein the Division Bench,

² (2007) 8 SCC 418

after considering the settled principles of law, held that 'in view of the judicial precedents touching the aspect of delay laches referred to in the preceding paragraphs and upon seeing the inordinate delay of more than 5 ½ years, coupled with the fact the weak justification and explanation which is not plausible or satisfactory in any manner forces this Bench to hold that the instant Writ Petition suffers from delay laches and deserves to be dismissed.'

7. In Writ Appeal Nos. 1660 of 2018 and 593 of 2016, by order dated 13.12.2021, the Division Bench of this Court, taking into consideration the judgment in **Kulwant Singh Gill v. State of Punjab** (1991 Supp (1)(SCC 504), held that delay of 5 to 18 years was held to be inordinate in preferring a Writ Petition under Article 226 of the Constitution. The same analogy applies in the case of petitioners who approached the authorities nearly after 30 years of the order of displacement.

8. Learned counsel for petitioner places reliance on the order dated 30.06.2010 in O.A. No. 10637 of 2009, wherein the Tribunal directed the respondents to consider the case of applicant for appointment in terms of G.O.Ms.No. 98, irrespective of the limitation prescribed therein and pass appropriate orders as per his eligibility and suitability. The above order is confirmed by this Court in Writ Petition No. 2436

of 2011 dated 08.02.2011 and the matter was carried to the Hon'ble Supreme Court in SLP (Civil), No. 14305 of 2011 which was dismissed, hence, the law is settled that displaced persons are permitted to submit their applications irrespective of the houses acquired during 1977-78 prior to issue of G.O. and the speaking order is *non-est* in the eye of law and the same is liable to be set aside.

9. However, this Court, in view of the legal position placed by respondents on the ground of delay and laches, is not inclined to take into consideration the submissions of learned counsel for petitioner and the judgments relied on by him. The Writ Petition, in the considered opinion of this Court, is liable to be dismissed.

10. The Writ Petition is accordingly, dismissed. No costs.

11. Consequently, the miscellaneous Applications, if any shall stand closed.

SD/- K. AMMAJI
DEPUTY REGISTRAR

//TRUE COPY//

R2
SECTION OFFICER

To,

1. One CC to Sri Poodattu Amarender, Advocate [OPUC]
2. Two CCs to GP for Irrigation and Common Area Development, High Court for the State of Telangana, at Hyderabad [OUT]
3. Two CD Copies

T J
GJP

HIGH COURT

DATED:28/05/2025

ORDER

WP.No.14339 of 2019



**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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4/7/25