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Court : Andhra Pradesh

Decided On : Jul-16-1999

Reported in : 2000(5)ALD169; 2000(1)ALT196

Judge : B.S.A. Swamy, J.

Acts : Andhra Pradesh Revised Pay Scales, Rules, 1961 - Rule 5(2)

Appeal No. : WP No. 27060 of 1998

Appellant : Dade Sharief

Respondent : Director-general and Inspector-general of Prisons and Director of Correctional Services and Another

Advocate for Def. : Government Pleader for Home Department

Advocate for Pet/Ap. : Mr. P. Keshava Rao, Adv.

Judgement :

ORDER

1. The petitioner-a retired Chief Head Warden filed this writ petition questioning the action of the respondents in not paying the arrears due to him pursuant to the 1st respondent's Proceedings No. 1857/BA4/88/SG-HW/D, dated 20-10-1992,

wherein the petitioner was given selection grade in the category of Head Warden with effect from 1-1-1972 to 26-9-1973, the day on which he was promoted as Chief Head Warden.

2. Heard both the Counsel.

3. The respondents in their counter having admitted the liability for payment of the amount, brought to the notice of the Court that because of the objection taken by the District Treasury Officer, Warangal and in the light of the G.O. Ms. No.191, Finance, and Planning (FW.PC.III) Department, dated 11-11-1992, wherein the Government has taken a decision that no proposals for appointment to the post of selection grade can be entertained by the Government from that day onwards as employees were given sufficient time put forth their cases and also the fact that the pay revision has taken place.

4. In the light of the admission made by the respondents about their liability, it has to be seen whether G.O. Ms. No. 191, dated 11-11-1992 will be really a hurdle in affecting the payment as per the objection raised by the DTO Warangal. To consider the validity of the objection of the DTO, brief narration of the facts of the case is necessary.

5. The Government seemed to have initially issued G.O. Ms. No.559 Home (Prisons-A) Department, dated 18-9-1986, creating selection grade posts to various categories of employees working in the Jails Department on the basis of the cadre strength of each of the category, with effect from 9-1-1972. But, while issuing the said G.O., the Government limited the benefit only to those persons who are actually working in the category i.e., the employees working in a particular cadre/category shall alone be considered for appointment for selection grade, questioning the said G.O., the employees who are on promotion but having a lien on the lower post filed writ petitions in the High Court and this Court struck down Rule 5(2) of the A.P. Revised Pay Scales, Rules, 1961. The appeal preferred by the Government to the Hon'ble Supreme Court also met with the same fate. Thereafter, the Government issued G.O.Ms.No.190, Finance and Planning (Finance Wing-Courts) Department, dated 10-6-1983, making seniors who are on promotion in the next higher posts in regular line eligible for selection grade

promotions from the date on which their juniors were appointed to the selection grade in the lower category and for regularisation of their pay based on such appointments prior to 13-6-1975. In G.O. Ms. No.4, Finance and Planning (FW.PC) Department, dated 6-1-1986, the Government prescribed procedure for finalisation of the pending selection grade cases on or before 30-6-1986. It is a known fact that the Officers in Government moves in snails progress when they are not concerned with the subject matter. With the result, the authorities concerned, went on passing orders from time to time, as and when they found time. In those circumstances, the petitioner was given selection grade promotion along with others by the 1st respondent in his proceedings dated 20-10-1992. At that stage the Government having taken note of the inaction on the part of the officers concerned and also on the ground that the employees were given sufficient time to get their cases settled issued G.O. Ms. No.191, dated 11-11-1992, stating that no proposals for appointment of selection grade posts can be entertained. Relying on this G.O., the District Treasury Officer rejected the bill submitted by the 2nd respondent for effecting payment to the petitioner. I have no hesitation to hold that the DTO wrongly interpreted the G.O. in rejecting the claim of the petitioner. What all the Government mean is that the Government in future shall not create any selection grade posts. This is due to the reason that originally in G.O. Ms. No.559, dated 18-9-1986, the Government indicated the number of selection grade posts that can be given to each of the category working in the Jails Department and admittedly these posts have been filled up with the employees who are working in that category on the date of issuance of the G.O. It is only after the judgement of this Court as well the Supreme Court, the Government gave directions to the officers concerned to consider the cases of the persons for promotion who are having a lien over the lower category post for selection grade prior to 13-6-1975 and finalise the proposals before 30-6-1986. In other words, in the light of the changed circumstances, due to the judgment of this Court as confirmed by the Supreme Court, the authorities concerned were forced to create new selection grade posts to accommodate the seniors whose cases were ignored while affecting selection grade promotions in G.O. Ms. No.559. It is also an admitted fact that the 1st respondent having considered the case of the petitioner along with others issued the order on 20-10-1992 i.e., before issuance of G.O. Ms.

No.191, dated 11-11-1992. According to me Paragraph No.3 of the said GO has to be interpreted, that the Government is not going to create any more selection grade posts even though the authorities concerned send proposals. But, in this case, the case of the petitioner was considered in the posts that were sanctioned and also orders were issued before the prohibitory orders were issued by the Government. Hence, the G.O. Ms. No.191, cannot be made applicable to the facts of this case. Infact, Letter No.39/Estt./ SG/93, dated 1-11-1995, addressed by the Additional Director-General of Prisons and Director of Correctional Services, to the Secretary to Government, Home (Prisons-A) Department, also supports the view taken by me.

6. Hence, I do not find any justification for the objection raised by the District Treasury Officer, in returning the bill for affecting payment of the arrears to the petitioner.

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