

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.32266 OF 2016

Between:

V.Ravi Kumar

... Petitioner

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 18.07.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

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< Gist:

> Head Note:

! Counsel for the Petitioner : Mr G. Raman Goud

^ Counsel for Respondents : G.P. for Forests

? Cases Referred:

HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.32266 OF 2016****ORDER:**

Heard the learned counsel for the petitioner and the learned counsel for the unofficial respondent Nos.5 & 6 and learned Government Pleader on behalf of respondents No.1 to 4.

2. The petitioner has approached this Court, seeking the following relief:

"To issue a Writ, order or direction, more particularly one in nature of a Writ of Mandamus (a) Declaring the action of third respondent in issuing the impugned order in Rc. No. 145/2016/M2(i) dated 31.08.2016 and consequential orders in Rc.No.145/2016/M2(ii)dated 31.08.2016 and communicated by the 4th Respondent vide Rc.No.293/S1/2016 ignoring and overlooking the petitioner who is senior according to the seniority list communicated by the respondents as on 01.01.2015 and promoting the unofficial respondent as on 01.01.2015 and promoting the unofficial respondent 5 and 6 as Deputy Range Officers who are junior to the petitioner as arbitrary, illegal, against rules and to set aside the same; and (b) Consequently, direct respondents to

promote petitioner as Deputy Range Officer according to the seniority list as on 01.01.2015.

3. The case of the Petitioner, in brief, as per writ affidavit filed, is as follows:

a. The Petitioner has Joined in the service as Forester (Forest Section Officer) on 20.12.2008 and has been working in the said ever since and had also completed his one year training of Forester at Andhra Pradesh Forest Academy, Dhulapally.

b. Respondent had issued the seniority list vide "GENERAL ESTABLISHMENT – CUM – INTER-SE-SENIORITY LIST OF FORESTERS (FOREST SECTION OFFICERS) OF NIZAMABAD CIRCLE" dated 01.01.2015 and the petitioner was placed at Serial No. 4.

c. 3rd Respondent vide Rc.No.145/2016/M2(i) dated 31.08.2016 promoted 3 (Three) Foresters who were placed at Serial no. 2, 11 and 14 as Deputy Range Officers and posting orders were issued vide Rc.No.145/2016/M2(ii) dated 31.08.2016. While the Forester at Serial no. 2 is a senior of the Petitioner, the Foresters at Serial no.11 and 14 have been promoted as Foresters as 10.09.2009 and 29.04.2010.

d. According to Rule 5 of The Andhra Pradesh Forest Subordinate Service Rules, 2000 the method of appointment to the category of Deputy Range Officer from

Forester is by way of promotion only and the appointing authority is Conservator of Forests of the concerned territorial circle and required qualifications are mentioned in detail in Section 5.

e. According to Rule 5 of Andhra Pradesh Forest Subordinate Services Training Rules, 2012, the trainees from the cadre of Forest Selection Officer shall be selected based on the Circle seniority list and;

f. According to Rule 7 of The Andhra Pradesh Forest Subordinate Service Rules, 2000 minimum service (for promotion/appointment by transfer), no person shall be eligible for promotion unless he has put in not less than 3 years of service in the category from which promotion and transfer is made.

g. Rule 8 of A.P. State and Subordinate Service Rules states, for appointment to a higher post either by promotion from one category to another within a service or by appointment by transfer from one service to any other service, a member of a service or class of a service, shall have satisfactorily completed his probation in the category from which he is proposed to be promoted or appointed by transfer of such higher position and the Deputy Range Officer post is a non-selection post.

h. According to Rule 6(h)(i) of A.P. State and Subordinate Service Rules. 1996, For non-selection posts referred to in sub rule (b) of Rule 5, the appointing authority shall prepare a list of eligible employees every

year from 1st September of the year to 31st August of succeeding year after considering the record sheet and qualification prescribed for the said post in relevant Special Rules for promotion to next higher category of non-selection post.

i. Rule 5(b) – Non selection posts – Non Gazetted should be treated as selected posts. Promotion and appointment by transfer to higher posts other than those mentioned in sub rule (a) shall be made in accordance with seniority cum fitness, unless;

(i) Such promotion or appointment by transfer of member has been held as a penalty.

j. The Action of Respondent in ignoring and overlooking the seniority of the petitioner while promoting 5th and 6th Respondents, who were juniors to petitioner is in Violation of Rule 5(b) and Rule 6(h) (i) and Rule 8 of A.P. State and Subordinate Service Rules and A.P. Forest Subordinate Service Rules 5 and 7 for promotion and seniority list issued dated 01.01.2015. Hence, this Writ Petition.

4. The Case of the Respondents, in brief, as per counter filed, is as follows:

- a. The Petitioner was not eligible for promotion as he was undergoing training as Forest Section Officer in Telangana Forest Academy, Dhulapally, Hyderabad.
- b. Basing on the recommendation of the Divisional Forest Officer, Medak and after examining the panel with

reference to the rules, the Petitioner was not considered for promotion during the panel year 2015-2016.

- c. During the Panel year 2015-2016, 3 (Three) Deputy Range Officer posts were vacant and the panel has been called for 9 (Nine) members of the Forest Section Officer in the ratio of 1:3 as per rules.
- d. But, out of the 9 (Nine) members, only 2 (Two) Forest Section Officers were eligible for promotion and as such, Chief Conservator of Forests, Nizamabad Circle had called for the panel of next junior members of Forest Section Officers and included in the said panel.
- e. Petitioner being at Serial No. 4 was untrained and was in the middle of training and hence was not considered for promotion.
- f. After through examination of rules, the next candidates who are fully qualified have been considered for promotion to the category of Deputy Range Officer during the panel year 2015-2016.
- g. Also, the candidature of the Petitioner will be examined for the next panel year 2016-2017, subject to availability of vacancies and pending any disciplinary cases. Hence, there are no merits in the said and dismiss the Writ Petition.

5. PERUSED THE RECORD :

(a) Rule 6(b) of Telangana State Subordinate Service Rules, 1996 says that, "the panels for promotion shall be prepared ordinarily during the month of September every year on the basis of estimate of vacancies sent in terms of sub-rule (d). 1st September of the year shall be reckoned as the qualifying date to determine the eligibility of a candidate for such appointment which shall cease to be in force on the afternoon of the 31st December of the succeeding year or till the next panel is prepared whichever is earlier and for the purpose of preparing the said panel, the zone of consideration shall be in the ratio of 1:3. The period from 1st September of the year to the 31st August of the succeeding year shall be reckoned for purpose of determining the number of vacancies during the panel".

(b) Rule 5 of the Telangana Forest Subordinate Service Rules, 2000 says that "no person shall be eligible for appointment/promotion to the category of Dy. Range Officer from the feeder category of Forest Section Officer unless he possess the following qualification :

i. Must possess minimum general educational qualification.

ii. Must have successfully undergone the full course of Training in Forestry in the A.P. School of Forest or any other training institution recognized by the Government of Andhra Pradesh or run by the Forest Department.

6. Para 4 of the counter affidavit filed by the respondents 1 to 3, reads as under :

The following is the seniority list in the category of Forest Section Officer as on 01.01.2015. During the Panel year 2015-16, (3) vacancies of the Dy.Range Officer posts are vacant and the panel has been called for (9) members of the Forest Section Officer in the ratio of 1:3 as per Rules in vogue. But out of (9) members only (2) Forest Section Officers were eligible for promotion. As such the Respondent No.3 i.e., Chief Conservator of Forests, Nizamabad Circle, Nizamabad has called for the panel of next junior members of the Forest Section Officers and included in the said panel. At the time of approval of the panel by the Respondent No.3 i.e., Chief Conservator of Forests, Nizamabad Circle, Nizamabad, the following is the position of the candidates :

Sl. No.	Name of the Forester	Sl.No. of the Seniority list as on 01.01.2015	Eligibility

1	Sri K. Shanthan Kumar Goud	1	Un-trained, hence not considered for promotion.
2.	Syed Fasiuddin	2	Trained and eligible for promotion.
3.	Lingamurthy	3	Un-trained, hence not considered for promotion.
4.	Sri V.Ravi Kumar	4	Un-trained, hence not considered for promotion.
5.	L.Prasad	8	ACB Case is pending hence not promoted.
6.	M.A.Waheed	9	Under going with punishment of censure, hence not considered for promotion.
7.	K.Srinivas Naik	10	Un-trained, hence not considered for promotion.
8.	J.Krishna	11	Trained and eligible for promotion.
9.	K.Shankar	12	Under going punishment of stoppage of one annual grade increment of without cumulative effect, hence not considered for promotion.
10.	A.Srinivas	13	Un-trained, hence not considered for promotion.
11.	E.Narayana	14	Trained and eligible for promotion.

From the above table, it is clear and evident that, the Petitioner at SI.No.4 was not eligible for promotion to the

category of Dy.Range Officer as he is undergoing training as on 01.09.2015. As such after thorough examination with reference to the Rules, the next candidates who are fully qualified have been considered for promotion to the category of Dy.Range Officer during the panel year 2015-2016.

DISCUSSION AND CONCLUSION :

7. At para 3 of the affidavit filed by the Petitioner in support of the present Writ Petition, the Petitioner himself admitted that he successfully completed the training at the end of September, 2015.

8. It is specifically averred in the counter affidavit filed by the Respondents No.1, 2 and 3 that as per Rule 6(b) of the Telangana State Subordinate Service Rules, 1996, the Respondent No.3 herein, called for the panel during the year 2015-16 (w.e.f., 01.09.2015 to 31.08.2016) to promote the eligible Forest Section Officers to the category of Deputy Range Officers and the Petitioner's case was not considered for promotion as on 01.09.2015 since the Petitioner was not eligible for promotion as he was undergoing training as Forest Section Officer in Telangana Forest Academy, Dulapally, Hyderabad (15th Batch).

9. The orders impugned in the present writ petition (i) Rc.No. 145/2016/M2(i), dt. 31.08.2016 and consequential orders in (ii) Rc.No.145/2016/M2(ii), dt. 31.08.2016, which pertained to promotion of 3 Forest Section Officers as Deputy Range Officers and issuing posting orders to them. The main grievance of the Petitioner pertains to the promotion of the unofficial Respondents No.5 & 6 herein who are placed in the seniority list at Sl.No.11 and 14, whereas the Petitioner is placed in the seniority list at Sl.No.4.

10. A bare perusal of the counter affidavit filed by the respondents 1 to 3 clearly indicates the Respondents No.5 & 6, i.e., J.Krishna Respondent No.5 at Sl.No.11 and E.Narayana i.e., Respondent No.6 at Sl.No.14, and the Petitioner herein at Sl.No.4 as per the seniority list as on 01.01.2015, but admittedly even according to the Petitioner as pleaded at para 3 of the affidavit filed by the Petitioner in support of the present writ petition, the Petitioner successfully completed the training at the end of September 2015 and in view of the fact that the Respondents No.5 & 6 were fully qualified during the panel year 2015-16, Respondent No.5 and 6 had been considered for promotion to the category of Deputy Range Officer.

11. It is also averred in para 4 of the counter affidavit filed by Respondents No.1, 2 and 3, that the Petitioner's candidature will be examined during the panel year 2016-17 subject to availability of vacancies and pending any disciplinary cases etc.

12. This Court opines that there is no illegality in the orders impugned in the present writ petition, in view of the fact that the orders impugned in the present writ petition have been passed by the Respondent Authority duly taking into consideration Rule 6(b) of Telangana State Subordinate Services Rules, 1996 and Rule 5 of Telangana Forest Subordinate Service Rules, 2000, and the writ petition is accordingly dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

MRS. JUSTICE SUREPALLI NANDA

Date: 18.07.2023

Note : L.R. Copy to be marked.

B/o.

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