

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P. No. 1434 of 2019****Between:**

R.Ravinder

... Petitioner

And

The State of Telangana

Rep.by its Principal Secretary and another

... Respondents

**JUDGMENT PRONOUNCED ON: 21.12.2023****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

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**W.P. No. 1434 of 2019**

**% 21.12.2023**

**Between:**

**# R.Ravinder**

**..... Petitioners**

**And**

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Rep.by its Principal Secretary and another**

**... Respondents**

**< Gist:**

**> Head Note:**

**!Counsel for the Petitioners: Mr V.Ravichandran**

**^ counsel for Respondents : G.P. for Panchayat Raj**

**? Cases Referred:**

**(1) (2010) 9 SCC 496**

**(2) 2010 (3) SCC 732**

**HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 1434 of 2019****ORDER:**

**Heard Mr.V.Ravichandran, learned counsel appearing on behalf of the petitioner and learned Government Pleader for Panchayat Raj, appearing on behalf of the respondents.**

2. This writ petition is filed to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring that the petitioner is entitled to be reverted to the post of Assistant Engineer with benefits incidental thereto including promotion to the post of Deputy Executive Engineer keeping in view the fact that petitioner's lien is in the post of Assistant Engineer on the analogy of order issued in respect of similarly situated individual vide G.O.Rt.No.1085, Panchayat Raj & Rural Development (ESTT.II) Department, dated 18.06.2012 in the interest of justice duly declaring and setting aside the impugned rejection Memo No.1524/PR.I/A2/2017 Pandhyat Raj & Rural Development (PR I) Department dated 21.11.2017 as being

arbitrary, illegal and contrary to the provisions of Rule 28 of the T.S. State and Subordinate Service Rules, 1996 and in Article 14 of the Constitution of India.

**PERUSED THE RECORD:**

**3. The order impugned vide Memo No.1524/PR.I /A2/2017, dated 21.11.2017 of the 1<sup>st</sup> respondent reads as under:**

**"The attention of the Engineer-in-Chief, Panchayat Raj, Hyderabad is invited to the reference cited. After careful examination, it is informed that the proposal of the ENC, PR in respect of Sri R.Ravinder, Assistant Executive Engineer, Panchayat Raj, Zone-V for reversion to the post of Assistant Engineer, is rejected."**

**4. The counter affidavit filed by the 1<sup>st</sup> respondent, in particular paras 7, 8 and 9 read as under:**

7. It is submitted that, as per Rule-11 (b) of General Rules a person appointed by transfer or by promotion otherwise than by direct recruitment shall join the post within a period of fifteen(15) days from the date of receipt of the order of appointment. An employee who does not join the post within the stipulated time shall lose his/her promotion right/offer for the current panel year and the name of the candidate placed before the

next Department Promotion Committee(DPC) in the next panel year subject to availability of vacancy. Further, as per Rule-28 of General Rules, any member of service may relinquish any right or privilege to which he may be entitled under General rules or special rules. Such relinquishment once made will be final and irrevocable. In view of the said position, an employee can avoid his promotion one time under Rule-11 (b) or he can relinquish his right of promotion permanently under Rule-28. But there is no provision in rules for reversion to the lower post after joining in the promotion post. Accordingly. vide Memo.No.1524/PR.I/A2/2017 PR & RD Deptt., dt: 21-11-2017, the Government have rejected the proposal of the petitioner for reversion to the post of Assistant Engineer(AE).

8. In view of the above, it is submitted that, the Government have examined the proposal of the petitioner for reversion to the post of AE from the post of AEE in consultation with the advisory Departments viz., GAD and Finance Department and after taking a decision, orders were issued vide Govt., Memo.,No.1524/PR.I/ A2/2017, PR&RD Deptt., dt: 21-11-2017.

9. It is submitted that, in G.O.Rt.No.1085, PR&RD (Estt.II) Department, dated: 18-06-2012, Government have issued orders cancelling the appointment of Sri S. V.S.Prakash as AEE and permitted to count the service

rendered in the AEE category also. In the erstwhile Andhra Pradesh his case was considered in relaxation of rules as a special case. In the present case as per advice of the advisory Departments and as per existing rules, Government have not considered the request of the petitioner and issued orders vide Govt., Memo No.1524/PR.I/A2/2017 PR&RD Deptt., dated: 21-11-2017, It is also submitted that similar issue came up for consideration before the Government in case of Sri Ch.Anjaneyulu, AEE, and Government after considering the relevant rules rejected his claim vide Memo No.4493/PR.I/A2/2015-2, Dt:04.12.2015.

**5. The relevant provision Rule 28 of the T.S. Subordinate Service Rules, 1996, reads as under:**

"28. Relinquishment of rights by members -Any member of a service may, in writing, relinquish any right or privilege to which he may be entitled to, under these rules or the special rules, if in the opinion of the appointing authority such relinquishment is not opposed to public interest. Such relinquishment once made will be final and irrevocable. Nothing contained in these rules or the special rules shall be deemed to require the recognition of any right or privilege to the extent to which it has been so relinquished:

Provided that no conditional relinquishment or relinquishment of right for a temporary period shall be permitted.

**6. The case of the petitioner as per the averments made in the affidavit filed in support of the writ petition is as under:**

a) The petitioner was initially appointed as Assistant Engineer and joined duty in the Panchayat Raj Department w.e.f. 15.07.2018. The services of the petitioner had been regularized w.e.f. 14.08.1998 in the said category. The petitioner belongs to Schedule Tribe community and the petitioner was appointed by transfer as Assistant Executive Engineer vide proceedings No. SOII(3)/16575/2002-517, dated 21.04.2010.

b) It is the specific case of the petitioner that the petitioner has been appointed as Executive Engineer on 21.04.2010. The petitioner services have not been regularised as on date. The probation of the petitioner also had not been declared. The petitioner submitted detailed representation to the authority to revert the petitioner to petitioner's substantive post of Assistant Engineer with petitioner's original seniority as the same would entail better promotional avenues and service benefits. The 2<sup>nd</sup> respondent has forwarded the said representation on 04.02.2017 stating that the petitioner's

appointment to the AEE is temporary and that under Rule 28 of the T.S. Subordinate Service Rules, 1996 an employee is entitled to relinquish any right or privilege etc.

c) It is further case of the petitioner that under similar circumstances in respect of one Sri S.V.S.Prakash, the Government considered to issue orders vide G.O.Rt.No.1085, Panchayat Raj and Rural Development (Estt.)II, Department, dated 18.06.2012 cancelling his appointment as Assistant Executive Engineer and permitted to count the service rendered in the A.E.E. category also. But to the shock of the petitioner, the 1<sup>st</sup> respondent rejected the petitioner's request vide impugned Memo No.1524/PR.I/A2/2017, dated 21.11.2027 and the same was communicated to the petitioner vide memo dated 04.12.2017 of the 2<sup>nd</sup> respondent through proper channel. Aggrieved by the same, the petitioner approached this Court by filing the present writ petition.

**7. Learned counsel appearing on behalf of the petitioner mainly puts forth the following submissions:**

a) The impugned memo No.1524/PR.I/A2/2017, dated 21.11.2017 of the 1<sup>st</sup> respondent is an order passed without assigning any reasons.



- b) Though under similar situations applying Rule 28 of the T.S. Subordinate Service Rules, 1996 in respect of one Sri S.V.S.Prakash, the Government considered and issued orders vide G.O.Rt.No.1085, dated 18.06.2012 cancelling his appointment as Assistant Executive Engineer and permitted him to count service rendered in the Assistant Executive Engineer category also. But however similar relief prayed for by the petitioner had been denied unilaterally by the 1<sup>st</sup> respondent without assigning any reason.
- c) The order impugned is discriminatory in as much as in respect of the similarly placed individual order is passed permitting reversion and counting of service.
- d) As per the provisions of Fundamental Rights no employee can hold simultaneous lien on two Counts.
- e) The 1<sup>st</sup> respondent failed to appreciate the fact that the petitioner's appointment as AEE is only temporary and without any right and that the petitioner held lien in petitioner's substantive post of Assistant Engineer and that the petitioner is entitled to count seniority in AEE category.

e) The 1<sup>st</sup> petitioner has omitted to consider the fact and purport of provisions of Rule 28 and 10 of the T.S. Subordinate Service Rules, 1996.

f) Due to non regularisation of petitioner's service and non declaration of prohibition in the AEE category even after 8 ½ years, the petitioner is being denied promotion to the post of Deputy Executive Engineer.

g) Right to be considered for promotion is a Fundamental Right guaranteed under Article 16 of the Constitution of India and as such right in the present case is being frustrated by rejecting the petitioner's request by temporarily continuing the petitioner as AEE.

h) Learned counsel for the petitioner on the aforesaid submissions contended that the writ petition should be allowed as prayed for.

**8. Learned Government Pleader appearing on behalf of the respondents mainly puts forth the following submissions:**

a) There is no provision in rules for reversion to lower post after joining in the promotion post and therefore, the

Government had rejected the proposal of the petitioner for reversion to the post of Assistant Engineer.

b) The Government examined the proposal of the petitioner for reversion to the post of AEE in consultation with the Advisory Departments i.e. GAD and Finance Department and therefore, the order impugned is legal and warrants no interference.

**c) The case of Mr S.V.S.Prakash referred to by the petitioner for whom similar relief had been extended was a case which was considered in relaxation of rules as a special case. But the petitioner's case had been considered and his proposal was rejected in consultation with the Advisory Department.**

d) Learned Government Pleader submits that the writ petition is devoid of merits and hence, needs to be dismissed.

**DISCUSSION AND CONCLUSION:**

9. A bare perusal of the impugned Memo No.1524/PR.I/A2/2017, dated 21.11.2017 passed by the 1<sup>st</sup> respondent indicates that it is a cryptic order passed without assigning a single reason. A bare perusal of Rule 28 of the TS Subordinate Service Rules 1996 which deals with

relinquishment of rights by members clearly indicates that any member of a service may, in writing, relinquish any right or privilege to which he may be entitled to, under these rules or the special rules, if in the opinion of the appointing authority such relinquishment is not opposed to public interest. Such relinquishment once made will be final and irrevocable.

**10. The petitioner requested the 1<sup>st</sup> respondent to consider the petitioner's request duly considering the effect and purport of the provisions of Rules 28 and 10 of the TS Subordinate Service Rules, 1996, the impugned Memo dated 21.11.2017 of the 1<sup>st</sup> respondent does not indicate one single reason nor any consideration by the 1<sup>st</sup> respondent herein pertaining to the effect and purport of the provisions of Rules 28 and 10 of the T.S. Subordinate Service Rules, 1996 nor any consideration of the letter dated 04.02.2017 of the 2<sup>nd</sup> respondent addressed to the Special Chief Secretary to Government, Panchayat Raj and Rural Development, Telangana Secretariat, Hyderabad which clearly indicates that the 2<sup>nd</sup> respondent in the said letter observed that under Rule 28 of TS, Subordinate Service**

**Rules, 1996 an employee is entitled to relinquish any right or privilege etc.**

**11. In so far as Assigning reasons to ensure fairness in decision making is concerned, the Apex Court in judgment dated 08.09. 2010 in Kranti Associates (Private Limited) vs. Masood Ahmed Khan reported in (2010) 9 SCC 496 at para 47 formulated certain principles set out as under :**

**"47 a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.**

**b. A quasi-judicial authority must record reasons in support of its conclusions.**

**c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.**

**d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.**

**e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.**

**f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.**

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg

Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

**12. The Apex Court in Judgment reported in 2010 (3) SCC 732 in "Secretary and Curator, Victoria Memorial Mall v. Howrah Ganatantrik Nagrik Samity and others", at para 41 observed as under:**

"Reason is the Heart beat of every conclusion, it introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order unsustainable particularly when the order is subject to further challenge before a higher forum."

**13. A bare perusal of the counter affidavit very clearly at para 9 admits the fact that in G.O.Rt.No.1085, Panchayat Raj and Rural Development (Estt.II) Department, dated 18.06.2012, Government had issued orders cancelling the appointment of Mr SV.S Prakash**

as AEE and promoted to count the service rendered in AE category also. But however, it is contended in the counter affidavit that case of S.V.S.Prakash was considered in relaxation of rules as a special case. But however, in case of petitioner, the petitioner's request had been denied unilaterally without assigning any one single reason, this Court opines that it is settled law that alikes shall be treated as like and there cannot be any discrimination among similarly situated individual.

14. A bare perusal of the order impugned vide Memo No.1524/PR.I/A2/2017 dated 21.11.2017 of the 1<sup>st</sup> respondent clearly indicates no single reason as assigned by the 1<sup>st</sup> respondent in rejecting petitioner's request and this Court is of the firm opinion that failure to give reasons amounts to denial of justice.

15. Duly considering the aforesaid facts and circumstances and also the specific averment made by the petitioner in the affidavit filed in support of the present writ petition that due to non regularisation of petitioner's service and non declaration of probation in AEE category even after 8½ years the



petitioner had been denied promotion to the post of Deputy Executive Engineer, this Court opines that the request of the petitioner to revert the petitioner to petitioner's substantive post of Assistant Engineer with petitioner's original seniority should be re-examined and re-considered by the 1<sup>st</sup> respondent duly taking into consideration the orders issued in respect of one Mr S.V.S.Prakash vide G.O.Rt.No.1085, Panchayat Raj and Rural Development (Estt.)II, Department, dated 18.06.2012 in accordance to law duly considering effect and purport of the provisions of Rules 28 and 10 of T.S Subordinate Service Rules, 1996, as per the letter No.SER-I(2)/15237/2004, dated 04.02.2017 of the 2<sup>nd</sup> respondent addressed to the Special Chief Secretary to Government and appropriate reasoned orders passed and communicated to the petitioner.

**16. Taking into consideration the aforesaid facts and circumstances, and duly taking into consideration the view taken by the Apex Court in the judgment dated 08.09. 2010 in Kranti Associates (Private Limited) vs. Masood Ahmed Khan reported in (2010) 9 SCC 496 and the view taken by the Apex Court in the Judgment**

reported in 2010 (3) SCC 732 on the point of recording of reasons affecting any individual Prejudicially by Authorities concerned, and in the light of the discussion and conclusion as arrived at as above, the writ petition is allowed and the 1<sup>st</sup> respondent is directed to reconsider its decision made vide Memo No.1524/PR.I/A2/2017, dated 21.11.2017 and pass appropriate orders relating to petitioner's request for reversion to the post of Assistant Engineer in accordance to law duly taking into consideration the orders issued in favour of Mr S.V.S.Prakash in G.O.Rt.No.1085, dated 18.06.2012 and duly considering the effect and purport of the provisions of Rules 28 and 10 of T.S. Subordinate Service Rules, 1996 as per the letter dated 04.02.2017 of the 2<sup>nd</sup> respondent addressed to the Special Chief Secretary to Government, within a period of four weeks from the date of receipt of copy of this order in conformity with principles of natural justice by providing an opportunity of personal hearing to the petitioner and duly

**communicate the decision to the petitioner. However,  
there shall be no order as to costs.**

Miscellaneous petitions, if any, pending shall stand  
closed.

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**SUREPALLI NANDA, J**

Dated: 21.12.2023

Note: L.R. copy to be marked  
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**HON'BLE MRS JUSTICE SUREPALLI NANDA**

**W.P. No. 1434 of 2019**

**DATED: 21.12.2023**

Kvrm