

Mohammed Rahmat Ali

Vs

Inspector of Registration and Stamps, A.P. and Others

Civil Appeal No. 12019 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

30.08.1996

ORDER

1. Leave granted.

2. We have heard learned counsel on both sides.

3. This appeal by special leave arises from the order dated 15-4-1993 of the Andhra Pradesh Administrative Tribunal, Hyderabad made in RP No. 5737 of 1987. The appellant was appointed in 1951 as a Copyist in the Registration and Stamps Department in the erstwhile Government of Hyderabad. After formation of Andhra Pradesh he was allotted to Andhra Pradesh services. By proceedings dated 16-3-1976 he was suspended from service. Though he was initially convicted by the Magistrate, on appeal in Criminal Appeal No. 581 of 1981 the High Court by judgment dated 1-9-1983 set aside the conviction and acquitted him of all the charges on merits. In the meanwhile, the appellant was dismissed from service on 16-7-1981. Consequently, he filed RP No. 840 of 1985. The Tribunal set aside the order and directed the Government to consider his case according to rules. Since the appellant had not passed the departmental tests, he was not considered for promotion. He filed writ petition in the High Court in 1986 which directed the Government to consider his case. He retired on attaining the age of superannuation on 31-12-1984. Consequently, he was entitled to be considered for promotion according to rules from the date on which his immediate junior was promoted with consequential benefits. It was found that the appellant had not passed the registration test and accounts test Part I and Part II for Subordinate Officers prescribed under the Special Rules. Consequently, he was not given promotion. Again when the appellant filed RP No. 5737 of 1987, the Tribunal in the impugned order has dismissed the petition. Thus this appeal by special leave.

4. It is not in dispute that the Government have issued orders in GOMs No. 783 dated 7-9-1971 whereunder the Government have directed the first stage promotion be given to all the persons recruited under Hyderabad Cadre and Recruitment Rules, without insisting upon passing the departmental tests but gave double the time given to the employees of Andhra Region for passing the tests. The matter was again examined in GOMs No. 818 dated 21-7-1972 in consultation with the team of Secretaries to the Government of India, the State Government reconsider the matter and decided that the employees of the erstwhile Government of Hyderabad allotted to the State of Andhra Pradesh, be permanently exempted from passing the departmental tests on reaching the age of 45 years for the second and subsequent stages of promotion after 1-11-1956. The appellant's date of birth is 1-10-1928 and he attained the age of 45 years as on 1-10-1973. In view of the above exemptions under the orders passed by the Government for the first and subsequent promotion he is entitled to be considered, without insisting upon passing the departmental tests, for promotion on a

par with his immediate junior. Since he had attained the age of superannuation as on 1-10-1973, he is entitled to be considered on merits for promotion without passing the accounts and registration tests. Resultantly, he was not required to pass any test at any time before he was superannuated. Under those circumstances, the view of the Tribunal is not correct in law. The order of the Tribunal is, therefore, set aside. The Government is directed to consider his case according to rules for promotion without insisting upon his passing the departmental tests prescribed under the Special Rules or General Rules and to pass appropriate orders within a period of three months from the date of receipt of the order with all consequential benefits.

5. The appeal is allowed. No costs.