

SUPREME COURT OF INDIA

State of A.P.

Vs.

Civil Supplies Services' Assn.

(S. R. Babu and R.C. Lahoti JJ.)

29.03.2000

ORDER

S. RAJENDRA BABU, J.

Civil Appeal No. 16782 of 1996

1. This appeal is directed against the order made by the Andhra Pradesh Administrative Tribunal in O.A. No. 117 of 1995. In substance, the claim made before the Tribunal is for quashing G.O.M.S. No. 423, Food and Civil Supplies (II) dated 4.10.1994 on the ground that it is arbitrary, illegal, void and unsustainable.

2. By that notification certain rules framed by the Government in terms of G.O. M.S. No. 408, Food and Civil Supplies (II) dated 28.10.1993 were kept in abeyance. The Tribunal took the view that Public Service Commission had been consulted while issuing earlier notification but not the latter one. It was, however, noticed that the said notification dated 4.10.94 does not deal with condition of Service as contemplated by Article 309 as certain rules were kept in abeyance. The Tribunal was persuaded to direct the Government, while quashing the said G.O. M.S. No. 423 dated 4.10.94 to give effect to G.O. M.S. No. 408 dated 28.10.93 to the extent it is consistent with the Presidential Order. The complaint made in this appeal is that the rule framed by the Government is the subject matter of G.O. M.S. No. 408 dated 28.10.93 and is legislative in character and such a rule can at any time be repealed or modified and when the matter was under consideration by the Government, the Tribunal could not have issued the direction in the manner in which it had been done in the present case. We find force in the submission made on behalf of the appellant. The Tribunal could neither have given directions to the Government to frame rules in any particular manner nor direct the Government to give effect to the rules in part which were kept in abeyance. Therefore, we allow this appeal, set aside the order made by the Tribunal. There shall be no order as to costs.

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3. These appeals are filed by the Government of Andhra Pradesh against the order made by the Tribunal fixing the number of the vacancies of Deputy Tehsildars to be filled up by direct recruitment.

4. Before the Tribunal serious contentions were raised by both the sides as to the number of vacancies available insofar as Deputy Tehsildars are concerned. The Tribunal itself has noticed at

different stages the different figures furnished by the various Officers of the Government. Certain figures are set out as under:

a) As on 1-7-1988 403) Naturally including earlier b) As on 1-7-1992 264) figure as no direct c) As on 1-7-1992 309 recruitment was held and) deducting the figure of vacancies already notified viz., 179 Certain figures are given on the last page of the report of the sub-committee which are said to be based on tables. They are as follows:

As on 1-7-88 227 (includes 179 posts already notified to APPSC for the year 1990 -91) As on 1-7-90 251 (includes 179 posts already notified for 1990-91) As on 1-7-92 257 (includes 179 posts already notified for the year 1990-91)

5. Then again, the Tribunal could not be sure as to the number of vacancies available and issued directions to the Government and to the Commissioner to furnish certain records which would indicate the number of vacancies. These figures were also not available before the Tribunal. In the absence of appropriate information as to the number of vacancies available, it is difficult to perceive as to how the Tribunal could have proceeded to analyse and come to the conclusion that there are 545 vacancies available to be filled in by direct recruitment insofar as Deputy Tehsildars were concerned as on 1.9.92. In the circumstances, we allow these appeals and set aside the order made by the Tribunal and direct it to re-examine the matter. The Government shall furnish the appropriate particulars to the Tribunal within a period of six weeks from today and the Tribunal shall decide as to the number of vacancies available and give appropriate directions in that behalf. In the meantime, status quo shall be maintained on any appointment that has been made pursuant to the orders of the Tribunal however, subject to the final orders to be made by the Tribunal. It will be appropriate for the Tribunal to dispose of these applications as expeditiously as possible but not later than six months.

6. Impleadment application is rejected in view of the order passed above.