

# SUPREME COURT OF INDIA

K.L. Narasimha Rao

Vs.

State of A.P.

(M.J. Rao and S. V. Patil JJ.)

15.09.2000

## ORDER

1. Leave granted.

The appellant, who was working as a Village Officer, before the abolition of the hereditary village offices, was suspended from service in 1976 and ultimately removed on 25.12.1978. There was also a criminal case in connection with an incident in which the appellant is said to have attested a loan form which was presented by another person impersonating as one of the villagers. The loan was taken by that person from the State Bank of India. The appellant was convicted for one month rigorous imprisonment by the trial court. But the High Court reduced the said sentence to one week. The appellant has undergone the said sentence.

2. In the disciplinary enquiry in relation to certain other charges referred to above, the appellant was removed from service on 25.12.1978 as stated above. However, it appears that later the appellant was reinstated on 14.3.1980.

3. The Village Officers posts were abolished with effect from 6.1.1984 but the appellant was continued on the post till new recruitments were made under the 1990 Rules. When the selection took place for fresh appointment under the 1990 Rules, the appellant was not selected by the Revenue Divisional Officer vide order dated 7.3.1992 while the 5th respondent was selected. The appellant filed an appeal and the appeal was allowed by the District Collector on 21.8.1993. In further appeal the Commissioner set aside the said order. The appellant approached the Administrative Tribunal which dismissed his application on 2.8.99 and the said order was confirmed by the High Court on 11.8.99 in writ petition. This appeal is filed against the said order of the High Court.

4. Learned senior Counsel appearing for the appellant Sri V.R. Reddy, has contended that the case turns upon Rule 8 of A.P. Village Administrative Officers Rules. That reads as follows:

8. Qualifications for appointment of Village Administrative Officers :(1) In case of erstwhile village officers, a person shall be eligible for the post of -Village Administrative Officer, if:

(i)(a) he has passed the 7th class or its equivalent examination.

Provided that the ex-Village Officer who has put in less than ten years of service as on the 5th of

January, 1984 shall be required to pass the test as prescribed (sic) for Category-I (and) Category-II of Class-I. Village Officers under the Andhra Pradesh (Andhra Area) Village Officers' Service Rules, 1969 or the Andhra Pradesh (Telangana Area) Village Officers' Service Rules 1978, within a period of one year from the date of his appointment failing which, his services shall be terminated without assigning any reason and without notice.

(b).

(ii).

(iii)....

(iv)(xxx).

(Explanation :An ex-Village Officer who is a native of any revenue village in a municipal area shall be deemed to be the native of any village/group in that municipal area)

(v).

(vi) he has not been convicted by any Criminal Court or punished in (sic) departmental proceedings for any offence involving moral turpitu(sic) embezzlement, tampering of records, adducing false evidence before (sic) Court or forum thereby affecting Government interests.

5. Before the Commissioner, arguments were advanced in relation to the said Sub-rule (vi) of Rule 8(1). The Commissioner held that inasmuch as there was a "conviction" by the trial court and the appellant had undergone the sentence of (sic) week, he was disqualified and therefore, his case should not be considered. It was On the basis of the said finding that the Commissioner set aside the order of the District Collector and held in favour of the selection of the fifth respondent.

6. Learned senior Counsel for the appellant Sri V.R. Reddy submitted that the Commissioner did not give any finding as to whether the conviction by the Court against the appellant was in respect of any offence involving moral turpitude. Learned Counsel urged that no finding has been given by the Commissioner in that behalf and the Commissioner simply mentioned the fact there was a 'conviction' and that the appellant was disqualified under Rule 8 of A.P. Village Administrative Officers' Service Rules, 1990. It was also contended that this particular item which related to his conviction, had not even part of the charge sheet against the appellant and that in fact the appellant reinstated on 14.3.1980 and continued to work as Village Officer till 17.9.99 when the 5th respondent joined after the High Court judgment. It is contended this fact showed that the Government was satisfied that there was nothing against him and that the Government accepted it and therefore, his conduct did not border on moral turpitude. On the other hand, learned Counsel for 5th respondent Sri L.N. Rao contends that the mere fact that the appellant was allowed to continue pending regular recruitment, his continuance has no bearing the question. Learned Counsel also contended that the offence for which appellant was convicted, involved moral turpitude.

7. The aspect relating to 'moral turpitude' has not been gone into by the Commissioner in his order. It is therefore, necessary to remit the matter to the Commissioner so that he could consider these aspects and record his findings.

8. We, therefore, set aside the order of the High Court and the Administrative Tribunal and also of the Commissioner and remit the matter to the Commissioner to deal with the appeal in accordance with law bearing the provisions of Rule 8(1) (vi) in mind.

9. As stated earlier, by the time this Court passed the status quo order, the 5th respondent had already joined pursuant to the High Court's order. Therefore, the 5th respondent will continue till disposal of the appeal by the Commissioner. His further continuance will be subject to the result of the appeal.

Appeal is allowed accordingly.