

IN THE HIGH COURT FOR THE STATE OF TELANGANA :: AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND NINETEEN

PRESENT
HONOURABLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY



WRIT PETITION NO: 30587 OF 2010

Between:

Sri A. Santhosh Reddy, S/o. Sri Narayana Reddy IV Addl. District & Sessions Judge
(FTC) Siddipet, Medak District.

...PETITIONER

AND

1. The High Court of Andhra Pradesh, Hyderabad Reptd: by Registrar Administration High Court of A.P., Hyderabad.
2. The Government of Andhra Pradesh, Reptd: by its Secretary Law Department, A.P. Secretariat, Hyderabad.
3. The Principal District & Sessions Judge, Medak at Sangareddy, Medak District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus or any other appropriate writ (I) declaring that the Judicial Officers on promotion are entitled to the benefit fixation of pay as per FR 22 B in terms of rule 19 of A.P. State Judicial Services Rules, 2007 read with G.O.Ms. No. 60 dated 7-5-2003 and consequently set aside the Letter Roc. 2290/2010-11 dated 12-10-2010.

WPMP. NO: 38953 OF 2010

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in pursuance of Roc. 2290/2010-11 dated 12-10-2010 with a further direction to extend the FR 22-B to the writ petitioner on promotion to the Post of District & Sessions Judge (FTC).

Counsel for the Petitioner: SRI G. VIDYASAGAR SENIOR COUNSEL
FOR SMT K UDAYA SRI

Counsel for the Respondent Nos. 1 & 3: Y RAMA RAO (SC FOR APHC)

Counsel for the Respondent No.2: GP FOR SERVICES (TG)

The Court made the following: ORDER



HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.30587 OF 2010

ORDER: (per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

Heard the learned Senior Counsel for the petitioner, the learned Standing Counsel for the High Court for respondent Nos.1 and 3 and the learned Government Pleader for Services for respondent No.2.

2. The petitioner is a Judicial Officer governed by the provisions of the Andhra Pradesh State Judicial Services Rules, 2007; for short, 'SJS Rules'; which have been made in exercise of power under Articles 233, 234, 235 and 237 read with the proviso to Article 309 and the proviso to Clause (3) of Article 320 of the Constitution of India. Rule 19 among those Rules provides the Conditions of service. It reads as follows:

- (a) Pay and allowances: Pay and allowances of members of the service shall be as recommended by the National Judicial Pay Commission from time to time and accepted by the Government.
- (b) A member of the service shall be eligible for such leave and leave salary and such traveling allowance as is admissible to the member of the Indian Administrative Service governed by the All India Service Leave Rules, 1955 for the time being in force.
- (c) A member of the service shall be eligible for the other pensionary benefits regulated under the All India Service (death-cum-retirement benefits) Rules, 1958, which are in force at the time of his appointment.
- (d) The A.P. Civil Services (Classification, Control and Appeal) Rules, 1991, the A.P. Civil Services (Conduct)

Rules, 1964, the Fundamental Rules, the A.P. Leave Rules, 1933 and the Pension Rules for the time being in force shall insofar as they may be applicable, and except to the extent expressly provided in these Rules, govern members of the service in the matter of their pay, allowances, leave, leave salary, pension and other conditions of service.

3. Thus, while pay and allowances of the members of the service shall be as recommended by the National Judicial Pay Commission from time to time and accepted by the Government, different rules, including those in Clause (d) of Rule 19, including the Fundamental Rules are made applicable; would apply. Thus, Fundamental Rule 22 B along with its proviso becomes applicable. Therefore, there is no room for any controversy; and, the benefit of Fundamental Rule 22 B read with the proviso thereto would apply to those members of the service who are governed by the SJS Rules. G.O.Ms.No.60 dated 07.05.2003 issued by the Government of Andhra Pradesh pursuant to the recommendations of the National Judicial Pay Commission provides, among other things, for Assured Career Progression Scales. Whatever enures on the basis of the ACP Scales as provided in that Government Order would fall within Clause (a) of Rule 19 of the SJS Rules which provides that pay and allowances of the members of the service shall be as recommended by the National Judicial Pay Commission from time to time and accepted by the Government. The provision for ACP Scales is thus made a component as applicable to the Officers to which that would apply in terms of G.O.Ms.No.60 dated 07.05.2003. Therefore, there is no

warrant for any exclusion of the benefit of Fundamental Rule 22 B as regards emoluments that would be available in terms of that Rule and the proviso thereto.

4. In view of aforesaid reasons, this Writ Petition is ordered declaring that the Judicial Officers are entitled, on promotion, to the benefit of pay as per Fundamental Rule 22 B in terms of Rule 19(d) of the SJS Rules read with G.O.Ms.No.60 dated 07.05.2003. The impugned decisions of the Government and the communication of the Registry which are contrary to this declaration are hereby set aside. Consequential action shall be taken by the High Court and the Government to make available such benefits as may be available to be released.

Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

SD/- CH.VENKATESWARLU
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The Registrar (Administration), High Court for the State of Telangana at Hyderabad
2. The Registrar (Administration), High Court of Andhra Pradesh at Velagapudi, Amaravathi, Guntur District
3. The Secretary Law Department, State of Telangana, Secretariat, Hyderabad
4. The Secretary Law Department, Government of Andhra Pradesh, Velagapudi, Amaravathi, Guntur District
5. The Principal District & Sessions Judge, Medak at Sangareddy, Medak District.
6. One CC to Smt K.Udaya Sri, Advocate, (OPUC)
7. One CC to Sri Y.Rama Rao (SC FOR SC FOR HC), Advocate, (OPUC)
8. Two CCs to GP for Services (TG), High Court of Judicature at Hyderabad., (OUT)
9. Two CD Copies

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