

HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITION (AT) No.12 and 14 of 2021

COMMON ORDER :

As the issue involved in these two writ petitions is one and the same, these matters are taken up together for disposal by this Common Order.

2. The grievance of the petitioners in these cases is that they were appointed as Multi Purpose Health Assistants and they were acquired P.G. Degree with M.A. Sociology from the recognized Universities outside the State. According to the proviso, in case of the candidates possessing the P.G Degree in Social Work are not available, the candidates possessing M.A.S Sociology from any university recognized by the UGC shall be considered. It is further stated that for the last 30 years, no University or Institution in the State of Andhra Pradesh is offering the courses of Diploma or Certificate in Medico Social Worker which is a prerequisite qualification to hold the post of MSW Grade-I in terms of the Rules mentioned in G.O.Ms.No.565 M & H Department, dated 27.08.1979.

therefore, several posts of MSW Grade-I were unfilled for years together causing inconvenience to the public. Accordingly, several representations were made to the government to amend the qualification criteria to hold the post of Medico Social Worker Grade-I. Thereafter, the Government issued the amendment to the said Rules through G.O.Ms.No.190 H.M & F.W Department, dated 17.08.2012. it is further stated that the restriction imposed under the amendment in the said G.O.Ms.No.190 dated 17.08.2012 is not based on any logic and it violates the fundamental rights guaranteed under the Constitution of India and that the impugned rule issued in that G.O. prescribing P.G. Degree i.e., MSW only from the State is illegal and arbitrary. Hence these writ petitions.

3. Counter affidavits are filed in these two writ petitions taking the same stand and for convenience, the averments in the counter in first W.P.(AT) No.12 of 2021 are stated as under:

In G.O.Ms.No.190 Health Medical and Family Welfare (H1) Department dated 17.08.2012, the Government of Andhra Pradesh has amended the adhoc rules of Medico Social Worker Grade-I to the G.O.Ms.No.565 M&H (R1) Department, dated 27.08.1979, which reads as under:

- i) Must possess the Post Graduate Degree i.e., MSW (Master of Social Work) of any recognized University in the State:

Provided that in case of the candidates possessing the Post Graduate Degree in Social Work are not available the candidates possession MA Sociology from any University recognized by the University Grants Commission shall be considered.

- ii) Must have minimum, 5 years of field work experience in the related posts only i.e., in the Andhra Pradesh Medical Subordinate Service employees and Public Health Subordinate Services.

Accordingly, the respondents have issued circular to all the concerned officers working in Zone-III to furnish the names of qualified candidates if any working under their control.

4. Heard learned counsels appearing for the petitioners and learned Government Pleader for Services-IV appearing for the respondents.

5. During hearing, learned counsel for the petitioners submits that when the person with M.A Sociology from any University were made eligible, restricting the basic

qualification of MSW only from the State is arbitrary and violative of Articles 14 and 16 of Constitution of India. Therefore, for the reason in not acquiring MA Social Work Degree within the State, cannot be any legitimate objection to consider for promotion as MSW Grade-I. He further stated that it is open to the Government to amend the rules relating to promotion from time to time keeping the prevailing needs and circumstances and also to change the promotional policy.

6. On the other hand, learned Government Pleader while reiterating the contents made in the counters submitted that on verification of the proposals the petitioners have qualified the Master of Social Work in the outside State Universities. But as per G.O.Ms.No.190 Health Medical and Family Welfare (H1) Department, dated 17.08.2012 the petitioners are not eligible to include their names in the seniority list.

7. This Court observed that the question that arises as to whether such amendment applies to vacancies which arose prior to such amendment or whether such amendment applies to vacancy which arose after the

amendment or not. In the present case, the vacancies are kept unfilled pending a contemplated amendment issued in the G.O. in order to deny the promotion of the petitioners in accordance with the rules existing on the date of issue of amended rules. It leads to favour persons who will only be eligible for promotion after the amendment came into force. It also presumed that this amendment is brought into existence only to favour certain persons who possess such qualification.

8. In fact, the Hon'ble Supreme Court in a case of **Y.V. Rangaiah and others vs. J. Sreenivasa Rao**¹, held that *vacancies which occurred prior to the amended rules would be governed only by old rules and not by new rules*. Therefore, a panel in respect of the vacancies that arose prior to the amendment should be drawn only on the basis of the rules existing as on that date.

9. Having regard to the facts and circumstances of the case and on considering the submissions of both the counsels, this Court is of the considered view that declaring the restriction imposed under the G.O.Ms.No.190 dated

¹ AIR 1983 SC 852

17.08.2012 in so far as prescribing the qualification of P.G. Degree i.e., Master of Social Work (MSW) from any recognized University in the State for holding the post of Medico Social Worker-Grade-I as illegal.

10. In view of the interim order passed by this Court dated 21.12.2012 & 19.02.2013 respectively, the respondents are kept two posts Vacant. Therefore, the respondents are directed to consider the case of the petitioners for promotion, who possessed Post Graduate Degree i.e., MSW to the post of Medico Social Worker Grade-I, to the posts which were already kept vacant by the respondents by virtue of the above said interim orders.

11. With the above direction, the Writ Petitions are disposed of. There shall be no order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 24 -01-2023
Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITION (AT) Nos.12 & 14 of 2021

Date : 24.01.2023

Gvl