

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 18120/2014

(Arising out of impugned final judgment and order dated 25/06/2013
in WA No. 310/2012 passed by the High Court of A.P. at Hyderabad)

R.V.N.S. MURTHY Petitioner(s)

VERSUS

ACHARYA N.G.RANGA AGRICULTURAL UNIV.& ANR Respondent(s)

(With appln(s) for permission to appear and argue in person and
interim relief and office report)

Date : 02/02/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE C. NAGAPPANAmicus Curiae Mr. Yasobant Das, Sr. Adv. (A.C.)
Mr. Arvind Kumar Tiwary, Adv.
Mr. Kedar Nath Tripathy, Adv.

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mrs. D. Bharathi Reddy, Adv.
Ms. Shivani Khandekar, Adv.UPON hearing the counsel the Court made the following
O R D E RHeard Mr. Yasobant Das, learned senior counsel, who graciously
agreed to our request to appear as Amicus Curiae on behalf of the
petitioner, who earlier appeared as a party-in-person and we found
him not in a position to explain the real grievance involved in

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this litigation.

Digitally signed by

Renuka Sadana

Date: 2016.02.05

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Reason: After hearing Mr. Das, learned Amicus Curiae, we find that the
petitioner initially joined in the Respondent No.1/University as a

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Stenographer. Subsequently he was shifted to a College run by the
University itself. Thereafter, according to him, he was promoted
as Superintendent by orders of Court. Be that as it may, in the
year 2011 he filed a writ petition in the High Court in W.P.
No.24888/2011 for a declaration to the effect that the action of
Respondent No.1/University in not complying with the A.P. State and
Subordinate Service Rules, 1966 in the context of promotion to the
post of Assistant Registrar, Deputy Registrar and Joint Registrar
was illegal and arbitrary. The said writ petition was dismissed by
the High Court by order dated 8.9.2011. While dismissing the writ
petition, the High Court held that the promotion to those posts
were all governed by Andhra Pradesh Agricultural University
(Administrative and Accounts Officers) Service Regulations framed
in the year 1981 by virtue of the powers provided under Section 40

of the Andhra Pradesh Agricultural Universities Act, 1963.

The said order became final and conclusive. However, the petitioner filed another writ petition in W.P. No.27073 of 2011 challenging the 1981 Regulations framed by the University and contended that promotions to the post referred to above were to be made by applying Rules 5 and 6 of the State Service Rules. The said writ petition was dismissed by the learned Single Judge by order dated 28.9.2011. The petitioner challenged the same by filing Writ Appeal No.310 of 2012. By the impugned judgment, the Division Bench took the view that the second writ petition of the petitioner was hit by the principles of res judicata in the light of the dismissal of his earlier writ petition, namely, W.P. No.24888/2011 by the order dated 8.9.2011.

Though, we do not find the reasoning of the Division Bench more appropriate, still we do not find any scope to entertain this special leave petition, inasmuch as we find that the grievance of the petitioner pertains to non-consideration of his claim for promotion to the post of Assistant Registrar from the year 2005 onwards till he came to be superannuated in the year 2014.

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According to the petitioner for promotion to the post of Assistant Registrar, the feeder cadres are Superintendent, Special Category Stenographers in the Administrative Office in the Colleges and Research Stations, that as the petitioner was working as Superintendent and having passed the account test as per Regulations 8 of the 1981 Regulations, he was entitled to be included within the zone for being considered for promotion to the post of Assistant Registrar.

That apart, the other grievance of the petitioner is that under Regulation 10(2) of the 1965 Regulations all promotions should be made on the grounds of merit and ability and seniority to be considered only where merit and ability are approximately equal.

The sum and substance of the claim of the petitioner is that in the light of the said Regulation 10(2) of the 1965 Regulations, he was eligible to be considered by including him in the zone of consideration which the respondent failed to do. The selection

came to be made in the year 2005 onwards, wherein according to him, his claim to be considered within the zone was not made.

In support of his submission, Mr. Das, learned Amicus Curiae, relied upon the judgment of the Division Bench of the High Court dated 21.11.1985 passed in Writ Appeal No.586/1979 and Writ Appeal No.329/1980.

However, forceful the claim may be, since that was not the ground that was raised nor prayed for in either of the writ petitions, namely, W.P. No.24888/2011 or W.P. No.27073 of 2011

there is no scope for considering such a claim which would have necessitated the challenge to the notification for selection as well as by impleading the selected candidates etc. In the absence of such a challenge made it is well nigh possible to consider the same in this proceeding.

Therefore, leaving it open for the petitioner to work out his remedy, if any, in an appropriate manner, this special leave petition stands dismissed.

While appreciating the support and able assistance rendered by Mr. Yasobant Das, learned senior counsel, as an Amicus Curiae, we fix a remuneration of Rs.25,000/- (Rupees Twenty Five Thousand) to be paid to him.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
COURT MASTER

(SHARDA KAPOOR)
COURT MASTER