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GOVERNMENT OF A.P. AND ANR.

v.

Y. SAGARESWARA RAO

SEPTEMBER 5, 1994

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[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

Service Law : A.P. Mandal Development Officers in A.P. Panchayat Raj Service (Executive Branch) Adhoc Rules, 1989/A.P. State and Subordinate Service Rules :

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Rule 2/Rule 33(c)—Appointment to the post of Mandal Development Officers by transfer of officers from erstwhile Zilla Praja Parishad and Panchayat Samithies—Seniority—Counting of Past service—Absorbed with benefit of previous experience—Veterinary Assistant Surgeons (Extension Officers) in the same grade (Gazetted) and in the same scale of pay—Claim benefit of past service—Held: Entitled to tag previous service.

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Consequent upon the re-organisation of Panchayat Raj System, the Mandal Development Officers in A.P. Panchayat Raj Service (Executive Branch) Adhoc Rules were framed. Rule 2 thereof prescribed the methods of appointment to the post of Mandal Development Officers, by transfer of Superintendents in Zilla Praja Parishad Officer, Divisional Panchayat Officers and Extension Officers of erstwhile Panchayat Samithies. Candidates were selected by a Selection Committee on the basis of written examination and *viva voce*, and appointed as Mandal Development Officers and their *inter se* seniority was determined.

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Respondent, who was earlier working as Veterinary Asstt. Surgeon (Extension Officer) Challenged the order before the State Administrative Tribunal claiming benefit of past service on par with Block Development Officers who were also Gazetted Officers and in the same scale of pay and in their absorption were given the benefit of past service. The Tribunal allowed the claim, against which the State preferred the present appeal.

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It was contended that the Extension Officers were subordinate to the Block Development Officers and since the Selection Committee had assigned the order of seniority on the basis of merit, the Respondent cannot be given seniority tagging his previous service.

Dismissing the appeal, this Court

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HELD : 1.1. In G.O. Ms. No. 2/9 Panchayathi Raj Department dated June 17, 1972 amendment was made to the Rules taking out the Asstt. Veterinary Surgeons from the purview of the Extension Officers. In G.O. Ms. No. 169 Panchayathi Raj dated July 3, 1973 the posts of Asstt. Veterinary Surgeons had been made Gazetted and consequently they have been taken out from the purview of the administrative control of the Block Development Officers. As such the Veterinary Asstt. Surgeons no longer remained to be subordinate to the Block Development Officer. Their pay scale was at par with the Block Development Officers. Under the circumstances the respondent is entitled to tag his previous service since admittedly the B.D.Os. were given benefit and the appointment is by transfer though by process of selection, Rule 33(c) of the A.P. State and Subordinate Services Rules stands attracted. [114-G-H; 115-A-B]

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1.2. However, the benefit of this order cannot go to the other subordinate Extension Officers who continued to be subordinates to the erstwhile Block Development Officers. [115-B]

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6865 of 1994.

From the Judgment and Order dated 1.9.93 of the Andhra Pradesh Administrative Tribunal in O.A. 38256 of 1991.

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K.M. Reddy and Guntar Prabhakar for the Appellants.

V. Nageshwara Rao, P.S. Narsimha and V.G. Pragasam for the Respondent.

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The following Order of the Court was delivered :

Leave granted.

Consequential to the re-organisation of the Panchayat Raj Systems under the A.P. Mandal Parishads & Zilla Praja Parishads and Zilla Pranalika, Abhivrudhi Mandals Act, 1986 (Act No. 31 of 1986) (for short the 'Act') the Governor exercising the power under proviso to Art. 309 of the Constitution read with Sec. 28(c) of the Act made the A.P. Mandal Development Officers in A.P. Panchayat Raj Service (executive branch)

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- A *Ad hoc* Rules in G.O. Ms. No. 3 dated January 3, 1989 whereunder Rule 2 prescribed the method of appointment, namely, appointment to the post of Mandal Development Officers shall be made by transfer from the categories, namely, Superintendents working in Zilla Praja Parishad Officers, Divisional Panchayat Officers and Extension officers working in the erstwhile Panchayat Samithies, under G.O. Ms. No 4 dated January 3, 1989
- B Panchayati Raj & Rural Development, a committee of five members was constituted to select the candidates by conducting special qualifying tests and prescribed the marks for the written examination and also *viva voce*. Consequently number of persons came to be appointed, a list of which was attached to SLP paper book for Zone III. The list has been mentioned in
- C the light of the orders issued by the Government in G.O. Ms. No. 3 dated January 3, 1989 Panchayati Raj and Rural Development dated April 30, 1989 therein the respondents' seniority was determined. The respondents filed O.A. in the Tribunal contending that his scale of pay as an Veterinary Asstt. Surgeons (Extension officers) was a Gazetted post on par with the
- D Block Development Officer in the erstwhile Panchayat Samithies. This scale of pay was also the same. He was also in the gazetted cadre and that, therefore, when the block development officers were absorbed and given the previous service, the respondents also should have given the same benefit to him under Rule 33(c) of the A.P. State and Subordinate Service Rules (for short the 'Rules'). That contention was found favour with the
- E Tribunal and it allowed the O.A. No. 38256/91 on October 1, 1993. Calling that order in question the present appeal was filed.

- It is contended for the State that the Extension Officers were subordinate to the Block Development Officers and that, therefore, when the
- F recruitment was made in terms of G.O. Ms. No. 3 dated January 3, 1989 and the Committee had assigned the order of seniority on the basis of merit, the respondent cannot be given seniority tagging his previous service and that, therefore, Rule 37(c) has no application. Initially the contention appealed but after looking to the orders passed as regards Veterinary Asstt. Surgeons we find that there is no force in the contention. The
- G respondent admittedly stands on different footing. In G.O. Ms. No. 2/9 Panchayathi Raj Department dated June 17, 1972 they made an amendment to the Rules and taken out the Asstt. Veterinary Surgeons from the purview of the Extension Officers. In G.O. Ms. No. 169 Panchayathi Raj dated July 3, 1973 the posts of Asstt. Veterinary Surgeons had been made
- H Gazetted and consequently they have been taken out from the purview of

the administrative control of the Block Development Officers. In consequence the Veterinary Asstt. Surgeons no longer remained to be subordinate to the Block Development Officer. He had the pay scale at par with the Block Development Officers. Under those circumstances the respondent is entitled to tag his previous service since admittedly the B.D. Os. were given their benefit and the appointment is by transfer though by process of selection, Rule 33(c) of the Rules stands attracted. A B

The appeal is accordingly dismissed. The benefit of this Court cannot go to the other subordinate Extension Officers who continued to be subordinate to the erstwhile Block Development Officers.

G.N.

Appeal dismissed.