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MOHAMMAD RAHMAT ALI

v.

THE INSPECTOR OF REGISTRATION AND STAMPS,
ANDHRA PRADESH AND ORS.

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AUGUST 30, 1996

[K.R. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

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Andhra Pradesh Services—Promotion—Employee of erstwhile Government of Hyderabad allotted to Andhra Pradesh Services after formation of Andhra Pradesh State—Not considered for promotion as he did not pass the departmental tests—Tribunal dismissing his claim for promotion—On appeal held, since employees of erstwhile government of Hyderabad allotted to the State of Andhra Pradesh permanently were exempted from passing the departmental tests on reaching the age of 45 years, he is entitled to be considered for promotion on par with his immediate junior—Government to consider his case and pass appropriate orders within three months with all consequential benefits.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12019 of 1996.

From the Judgment and Order dated 15.4.93 of the Andhra Pradesh Central Administrative Tribunal at Hyderabad in R.P. No. 5737 of 1987.

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A. Raghuvir, R.S. Krishnan, D. Mahesh Bala and K. R. Nagaraja for the Appellants.

K. Ram Kumar, Ms. Asha Nair, C. Balasubramaniam and Y. Subba Rao for the Respondents.

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The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

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This appeal by special leave arises from the order dated April 15, 1993 of the Andhra Pradesh Administrative Tribunal, Hyderabad made in

RP No.5737/87. The appellant was appointed in 1951 as a Copyist in the Registration and Stamps Department in the erstwhile Government of Hyderabad. After formation of Andhra Pradesh he was allotted to Andhra Pradesh services. By proceedings dated March 16, 1976 he was suspended from service. Though he was initially convicted by the Magistrate, on appeal in Criminal Appeal No. 581 the High Court by judgment dated September 1, 1983 set aside the conviction and acquitted him of all the charges on merits. In the meanwhile, the appellant was dismissed from service on July 16, 1981. Consequently, he filed R.P. No. 840/85. The Tribunal set aside the order and directed the Government to consider his case according to rules. Since the appellant had not passed the departmental tests, he was not considered for promotion. He filed writ petition in the High Court in 1986 which directed the Government to consider his case. He retired on attaining the age of superannuation on December 31, 1984. Consequently, he was entitled to be considered for promotion according to rules from the date on which his immediate junior was promoted with consequential benefits. It was found that the appellant had not passed the Registration test and Accounts test Part I and Part II for Subordinate Officers prescribed under the Special Rules. Consequently, he was not given promotion. Again when the appellant filed R.P. No. 5737/87, the Tribunal in the impugned order has dismissed the petition. Thus this appeal by special leave.

It is not in dispute that the Government have issued orders in G.O. Ms. No. 783 dated September 7, 1971 whereunder the Government have directed that first stage promotion be given to all the persons recruited under Hyderabad Cadre and Recruitment Rules, without insisting upon passing the departmental tests but gave double the time given to the employees of Andhra Region for passing the tests. The matter was again examined in G.O. Ms. No. 818 dated July 21, 1972 in consultation with the team of Secretaries to the Government of India, the State Government reconsidered the matter and decided that the employees of the erstwhile Government of Hyderabad allotted to the State of Andhra Pradesh, be permanently exempted from passing the departmental tests on reaching the age of 45 years for the second and subsequent stages of promotion after November 1, 1956. The appellant's date of birth is October 1, 1928 and he attained the age of 45 years as on October 1, 1973. In view of the above exemptions under the orders passed by the Government for the first and subsequent promotion he is entitled to be considered, without insisting

- A upon passing the departmental tests, for promotion on par with his immediate junior. Since he had attained the age of superannuation as on October 1, 1973, he is entitled to be considered on merits for promotion without passing the Accounts and Registration tests. Resultantly, he was not required to pass any test at any time before he was superannuated. Under those circumstances, the view of the Tribunal is not correct in law. The order of the Tribunal is, therefore, set aside. The Government is directed to consider his case according to rules for promotion without insisting upon his passing the departmental tests prescribed under the Special Rules or General Rules and to pass appropriate orders within a period of three months from the date of receipt of the order with all consequential benefits.
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The appeal is allowed. No costs.

G.N.

Appeal allowed.