

**2023 LiveLaw (SC) 130**

**IN THE SUPREME COURT OF INDIA**  
CIVIL ORIGINAL JURISDICTION  
AJAY RASTOGI; J., BELA M. TRIVEDI; J.  
**WRIT PETITION (CIVIL) NO(S).49 OF 2022; FEBRUARY 23, 2023**

**C. YAMINI & OTHERS**

*versus*

**THE HIGH COURT FOR THE STATE OF ANDHRA PRADESH AT AMRAVATHI & ANR.**

**Constitution of India, 1950; Article 217(2)(a) - Supreme Court rejects the petition filed by nine judicial officers from Andhra Pradesh for consideration for elevation as HC judges- Court holds that their service as ad-hoc judges cannot be reckoned for the purposes of Article 217(2)(a). (Para 8)**

*For Petitioner(s) Ms. Aruna Gupta, AOR Mr. Ramesh Allanki, Adv. Mr. Syed Ahmad Naqvi, Adv.*

*For Respondent(s) Mr. Gagan Gupta, AOR Mr. Arvind Kumar Sharma, AOR*

**ORDER**

**1.** The petitioners are members of the Andhra Pradesh State Judicial Service who have approached this Court under Article 32 of the Constitution with the following reliefs:-

(a) Issue appropriate writ or order or direction to the respondent no. 1 to call for the judgments of the petitioners for the elevation of judgeship to the High Court as judicial officer as defined in Art. 217(2)(a) of the Constitution of India; and

(b) Issue or pass any writ, direction or order, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case. Issue or pass any writ, direction or order, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

**2.** It reveals from the counter-affidavit filed by the respondents that the petitioners were appointed in the cadre of District & Sessions Judge on Ad-hoc basis to preside over the Fast Track Courts under the Andhra Pradesh State Higher Judicial Service Special Rules for Adhoc Appointments, 2001 (hereinafter referred to as the "Rules, 2001") by order dated 6<sup>th</sup> October, 2003 and in sequel thereof, were appointed on regular basis in the cadre of District & Sessions Judge under the Andhra Pradesh State Judicial Service Rules, 2007(hereinafter being referred to as the "Rules 2007") after going through the process of selection, by Order dated 2<sup>nd</sup> July, 2013 and there is no break in service of either of the petitioners in the judicial service rendered by them in the cadre of District & Sessions Judge.

**3.** The seniority list of Officers working in respect of District & Sessions Judge cadre in terms of Rule 13 of the Rules, 2007 came to be notified by the respondents on 5<sup>th</sup> January, 2022 and the names of the present petitioners find place at serial nos.20, 21, 22 and 23 respectively. At the same time, those officers who were junior to them in seniority in the District & Sessions Judge cadre were placed at serial nos.24, 28, 29, 31 and 34, while overlooking the claim of the petitioners, these officers have been elevated to the Bench of the High Court of Andhra Pradesh.

**4.** The grievance of the petitioners is that the service which they have rendered as a District & Sessions Judge Fast Track on being appointed from 6<sup>th</sup> October 2003 has not been considered as a judicial service for the purposes of their elevation to the Bench of the High Court as defined under Article 217(2)(a) of the Constitution.

**5.** Extract of the seniority list of District & Sessions Judge is reproduced hereunder:-

## SENIORITY LIST IN RESPECT OF DISTRICT AND SESSIONS JUDGES

S. No.	NAME OF OFFICER SARVASRI
1-19	XXX XXX XXX
20.	KUM. C. YAMINI
21.	Y.V.S.B.G. PARDHA SARADHI
22.	N. SOLOMON RAJU
23.	SMT. A. BHARATHI
24.	B. SYAM SUNDER
25-27	XXX XXX XXX
28.	V. SRINIVAS
29.	B.V.L.N. CHAKRAVARTHY
30.	XXX XXX XXX
31.	D. VENKATA RAMANA
32-33	XXX XXX XXX
34.	V. GOPALAKRISHNA RAO
35-100	XXX XXX XXX

6. It has been averred that there were 9 vacancies in the High Court for elevation from judicial service and the Registry put the list of 27 eligible officers falling in the zone of consideration in the ratio of 1:3, in order of seniority, who have regular judicial service of minimum 10 years as Judge, which is the requirement of Article 217(2)(a) of the Constitution, were placed before the collegium, which resulted in a situation that the names of officers at serial nos.20 to 23, 25 and 26 of the seniority list dated 5<sup>th</sup> January, 2022 were not considered, as according to the respondents, they have not completed 10 years of regular judicial service and the names of District & Sessions Judges at serial nos.1, 3, 4, 5, 24 and 27 to 48 were considered for elevation as each of them had completed 10 years of judicial service at the relevant point of time.

7. The question which has been raised in the instant petition at the instance of the present petitioners has been examined by this Court in ***Kum C. Yamini Vs. The State of Andhra Pradesh & Anr.***(Civil Appeal No. 6296 of 2019 decided on 14<sup>th</sup> August, 2019) wherein the three-Judge Bench of this Court, after examining their nature of appointment as a District & Sessions Judge Fast Track on ad-hoc basis under the Rules, 2001 and later appointed by Order dated 2<sup>nd</sup> July, 2013 on regular basis and becoming members of the Rules, 2007 held that the petitioners are not entitled to claim benefit of seniority from the date of their initial appointment as District & Sessions Judge Fast Track and other consequential reliefs prayed for. At the same time, limited benefit of service rendered as Fast Track Court Judges was granted to them only for the purpose of pensionary and other retiral benefits. The relevant part is as under:-

“14.....The claim of seniority will depend upon several factors, nature of appointment, rules as per which the appointments are made and when appointments are made, were such appointments to the cadre posts or not etc. When the appellants were not appointed to any regular posts in the A.P. Judicial Service, appellants cannot claim seniority based on their ad hoc appointments to preside over Fast Track Courts. We are of the view that the ratio decided in the said judgments relied on by the appellants would not render any assistance in support of their case.”

“17. We have perused the aforesaid judgment and we are in agreement with the view taken by a two Judge Bench of this Court. Resultantly, while rejecting their claim for grant of seniority from the date of their initial appointment as Fast Track Court District Judges and other reliefs, we direct that the appellants and all others who are similarly placed are to be given benefit of counting their service rendered as Fast Track Judges, for the purpose of pensionary and other retiral benefits.”

8. Since the services rendered by the petitioners as Fast Track Court Judges have not been recognized by this Court for the purpose of seniority except for pensionary and other retiral benefits, the plea raised by the petitioners to consider their service rendered as Fast Track Court Judges as a judicial service for the purpose of Article 217(2)(a) of the Constitution, in light of the judgment of this Court what being prayed for, is not legally sustainable.
9. Consequently, the writ petition is without substance and is accordingly, dismissed.
10. Pending application(s), if any, shall stand disposed of.

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