

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE MRS. JUSTICE ANIS

WRIT PETITION No.31465 of 2014

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ORDER: (per Hon'ble Sri Justice Nooty Ramamohana Rao)

This writ petition is preferred by the State against the orders passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.7448 of 2011 instituted by the 1st respondent herein.

Heard learned Government Pleader for Services and

Sri K.G.Krishna Murthy, learned senior counsel on behalf of the counsel for the 1st respondent herein, who has accepted notice.

Learned Government Pleader for Services has pointed out that the applicant in the O.A. sought for quashing the endorsement dated 19.08.2010 issued by the District Collector, Karimnagar District rejecting the claim of the applicant for assignment of notional seniority on par with his junior, whereas in paragraph No.4 of the order a comparative statement of facts has been drawn by the Tribunal comparing the case of the 1st respondent herein and one Smt.D.Jagadeeshwari. Thereafter, learned Tribunal proceeded to conclude the entire issue in a very crisp manner in two short paragraphs numbered 7 and 8. It had arrived at a conclusion that if the applicant in O.A. was sent for survey training in the year 2004 or earlier, he would have completed all the qualifying conditions for promotion as Senior Assistant by the year 2004, when

the 4th respondent was promoted.

One Sri L.Ram Reddy was the 4th respondent before the Tribunal. There is no comparative study carried out by the Tribunal comparing the case of the applicant before it with that of Sri L.Ram Reddy, instead it had undertaken a comparative assessment of the merit between the applicant before it and Smt.D.Jagadeeshwari.

On what basis or foundational facts the Tribunal recorded its satisfaction that if only the applicant was sent for survey training in the year 2004 or earlier, he would have completed all the requirements, is not fathomable at all. From the comparative study undertaken we have found out that the applicant before the Tribunal has passed the Account Test for subordinate officers conducted by the Public Service Commission in November, 2004, whereas he was recruited in September, 1987. Nearly, he took 17 years for passing the said exam, which is conducted on a regular basis by the Public Service Commission. But yet, the Tribunal would infer that if only the applicant has been sent for survey training, he would have completed it.

Clearly, the order passed by the Tribunal is essentially based on *ipse dixit* rather than any credible material.

At this stage, Sri K.G.Krishna Murthy, learned senior counsel, sensing the futility of trying to sustain the order of the Tribunal, had come up with a suggestion that the matter be remanded back to the Tribunal, so that a proper and careful analysis of all the relevant facts can be carried out this time around, so that the case of the applicant may not suffer for default of such scrutiny.

Since we see considerable merit in the suggestion made by Sri K.G.Krishna Murthy, learned senior counsel, and since we have, anyway, arrived at the conclusion that the order passed by the Tribunal granting a relief to accord notional seniority to the applicant before it is not based upon any reasons or logical inferences, we accede to the said request made by Sri K.G.Krishna Murthy, learned senior counsel and set aside the order passed by the Tribunal.

Accordingly, the order passed in O.A.No.7448 of 2011 by the A.P. Administrative Tribunal, Hyderabad is set aside and the matter is remitted back to the Tribunal for consideration afresh strictly in accordance with law. Hopefully, the case may be decided within a maximum period of three (3) months from the date of receipt of a copy of this Order.

Accordingly, the writ petition stands allowed to the extent indicated supra. No order as to costs.

The miscellaneous applications, if any shall also stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

28.09.2015
Ksp