

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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AND

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THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

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WRIT PETITION No. 38344 of 2015

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ORDER: (per Hon'ble Sri Justice G. Chandraiah)

This writ petition is filed against the orders dated 27.08.2013 in O.A.No.9154 of 2011 with VMA No.1105 of 2013 & CA No.908 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The petitioner herein is the applicant and the respondents herein are the respondents in the said OA before the Tribunal. For the sake of convenience, the parties will be referred to as they were arrayed before the Tribunal.

2. Brief facts of the case are as follows:

The applicant was appointed as Civil Assistant Surgeon on 10.10.1987 and thereafter promoted as Civil Surgeon Specialist on 02.01.2000. The applicant relinquished his promotion and therefore he was reverted to his earlier post of Civil Assistant Surgeon by G.O.Rt.No.21.01.2006. It is the grievance of the applicant that though his juniors were promoted as Deputy Civil Surgeons in the year 2006 and as Civil Surgeons in the year 2010, the respondent-authorities have not promoted him on the ground that he relinquished his earlier promotion. It is the contention of the applicant that relinquishment is not a bar for fresh consideration for promotion and that reversion to previous post is not permanent and no such permanency is attributed to reversion even in the Service Rules. The applicant relied on the judgment of the Tribunal in OA No.4988 of 2010 which is stated to be applicable to the case of the applicant. The applicant has made several representations to the respondent-authorities requesting them to

consider his case for promotion, but to no avail.

Aggrieved thereby, he filed OA No.9154 of 2011 before the Tribunal. The Tribunal passed interim orders on 30.12.2011 directing the respondents to consider the case of the applicant for promotion as Deputy Civil Surgeon and Civil Surgeon as per his eligibility and qualification and as per rules, by placing his name in the D.P.C. in any of the existing vacancies or vacancies that are going to arise in future.

The respondents filed their counter along with a vacate petition seeking to vacate the interim orders passed in the OA. In the counter it is stated that the applicant was given notional promotion as Deputy Civil Surgeon on par with his junior for the panel year 2005-06. It is also stated that the DPH & FW, A.P., has submitted proposals to the Government in respect of the applicant for his notional promotion to the cadre of Civil Surgeon, vide letter dated 11.03.2013 and the Government vide its letter dated 14.03.2013 sought certain information and the DPH & FW has submitted the required information. The Government has requested the Tribunal to grant some more time to examine the proposals submitted by DPH & FW, Hyderabad, in respect of the applicant for notional promotion as Civil Surgeon. The Tribunal vide orders dated 17.04.2013 granted time to the respondent-authorities till 03.06.2013 for passing necessary orders regarding promotion of the applicant as Civil Surgeon. Thereafter, the Tribunal disposed of the OA by the impugned orders, observing as under:

“In view of the averments made by the respondents, the OA is disposed of with a direction to the respondents to consider the proposal pending before the 2nd respondent i.e. Government for considering notional promotion of the applicant to the post of Civil Surgeon, as per rules and pass appropriate orders within a period of three months from the date of receipt of a copy of this order. VMA and CA stand closed.”

Calling in question the legality of the orders passed by the Tribunal, insofar it relates to not issuing a direction to the respondents herein to consider the notional promotion of the applicant to the post of

Deputy Civil Surgeon and Civil Surgeon with effect from his date of joining in service as per rules, and seeking a consequential direction to the respondents to promote the applicant notionally to the post of Deputy Civil Surgeon and Civil Surgeon with effect from the date of his initial appointment with all consequential benefits thereto including fixation of pensionary benefits, the applicant filed the present writ petition.

3. Heard learned counsel for the petitioner/applicant and the learned Government Pleader for the respondents.

4. Learned counsel for the petitioner submits that the respondent authorities, in spite of the orders passed by the Tribunal, have not promoted the petitioner and non-implementation of the order of the Tribunal is putting the petitioner to loss.

5. If that is the case, in our view, in a way it amounts to contempt of orders passed by the Tribunal. And, the petitioner can make an application before the Tribunal about the non-implementation of the orders of the Tribunal; in which case the Tribunal shall consider and pass appropriate orders on such application made by the petitioner.

6. The writ petition stands disposed of, accordingly. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

04th December, 2015
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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

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04th December, 2015

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