

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No. 31500 OF 2011

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ORDER: *(Per Hon'ble Sri Justice Ramesh Ranganathan)*

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This Writ Petition is filed by the Union of India aggrieved by the order passed by the Central Administrative Tribunal, Hyderabad ("the Tribunal, Hyderabad" for short), in M.A.No. 174 of 2011 in O.A.No. 701 of 2006 dated 12-07-2011, whereby the petitioners herein were directed to implement the order passed in O.A.No. 701 of 2006 dated 24-11-2006 within a period of three months from the date of the order in M.A.No. 174 of 2011 *i.e.* 12-07-2011.

Facts, to the limited extent necessary, are that the respondents herein filed O.A.No. 701 of 2006 requesting the Tribunal, Hyderabad to declare the action of the 1st petitioner herein in not reviewing the order dated 17-05-2000, as per the directions of the Central Administrative Tribunal, Calcutta Bench ("the Tribunal, Calcutta" for short) in O.A.No. 1148 of 2003 dated 16-08-2004, as arbitrary and illegal. O.A.No. 701 of 2006 was disposed of by order dated 24-11-2006 directing the petitioners herein to consider the representations of the respondents-applicants; if it was found that they were similarly situated with the applicants in O.A.No. 1148 of 2003, they were entitled to the same benefit, and they should be extended the same benefit within a period of three months from the date of communication of the order; however, if the applicants were not entitled to the said benefit, they should be communicated the same with a reasoned order within the above stipulated period. O.A.No. 701 of 2006 was disposed of accordingly. The order of the Tribunal, Hyderabad, in O.A.No. 701 of 2006 dated 24-11-2006, has attained finality and is an order binding inter-parties.

In purported compliance of the order of the Tribunal, Hyderabad, the petitioners herein passed orders on 19-12-2006 holding that, as per the proceedings dated 17-05-2000 which was issued following the decision of the Supreme court in

R.Prabha Devi and others Vs. Union of India and others, those Upper Division Clerks who had not completed 16 years or 26 years, as the case may be, were not entitled for TBOP and BCR promotions under the scheme introduced by the Department of Posts; the decision of the Tribunal, Calcutta, in O.A.No. 1148 of 2003 dated 16-08-2014 was challenged before the Supreme Court; and, in case the special leave petition filed by the department was dismissed and if the applicants stood on the same footing as that of the applicants in O.A.No. 1148 of 2003, the same benefits would then be extended to the applicants in O.A.No. 1148 of 2003 subject to the outcome of the special leave petition pending before the Supreme Court. The special leave petition, preferred against the order of the Tribunal, Calcutta, was dismissed on facts by order in S.L.P. (C) No. 18019 of 2006 dated 13-09-2010. However, while dismissing the S.L.P., the Supreme Court observed that the said order should not be treated as a precedent for any other purpose. As a consequence thereof, the order in S.L.P. (C) No. 18019 of 2006 dated 13-09-2010 would not constitute a precedent binding on High Courts/Tribunals in other cases; and no other employee can rely on the said order to claim parity with the applicants in O.A.No. 1148 of 2003. That does not however justify the petitioners herein refusing to comply with the earlier order of the Tribunal, Hyderabad, in O.A.No. 701 of 2006 dated 24-11-2006 as the said order, having attained finality, is binding inter-parties. The order of the Supreme Court does not discharge the petitioners of their obligation to comply with the order of the Tribunal, Hyderabad, in O.A.No. 701 of 2006 dated 24-11-2006, which order has attained finality and is binding on the petitioners herein who were parties to the said O.A.

The fact, however, remains that the order of the Tribunal, Hyderabad, in O.A.No. 701 of 2006 dated 24-11-2006, required the petitioners herein to examine whether or not the applicants in the said O.A. were similarly situated to the applicants before the Tribunal, Calcutta, in O.A.No. 1148 of 2003. The order dated 19-12-2006 passed by the petitioners, in purported compliance of the order of the Tribunal, Hyderabad, in O.A.No. 701 of 2006 dated 24-11-2006, acknowledges that they have not examined whether or not the applicants in O.A.No. 701 of 2006 were similarly situated to the applicants in O.A.No. 1148 of 2003.

We see no reason to interfere with the order passed by the Tribunal, Hyderabad, in M.A.No. 174 of 2011 in O.A.No. 701 of 2006 dated 12-07-2011. Suffice it, if the said order of the Tribunal is modified to the limited extent that the

petitioners herein shall implement the orders passed by the Tribunal, Hyderabad, in O.A.No. 701 of 2006 dated 24-11-2006, within two months from today.

Subject to the aforesaid observations, the Writ Petition fails and is, accordingly, dismissed. Pending miscellaneous petitions, if any, in this Writ Petition shall stand dismissed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA MURTHY, J.

Date: 09th April, 2015.

JSK