

**THE HON'BLE SRI JUSTICE K.C. BHANU
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

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Writ Petition No.4892 of 2015

ORDER: (per Hon'ble Sri Justice K.C. Bhanu)

The petitioners seek for a writ of Certiorari to quash the orders dated 07.09.2011 of the Andhra Pradesh Administrative Tribunal at Hyderabad passed in OA.No.7271 of 2011 whereunder and whereby the respondents therein were directed to consider the case of the applicant for appointment in terms of G.O.Ms.No.98 Irrigation (Proj.Wing) Department dated 15.04.1986 irrespective of the date of his application or irrespective of the limitation prescribed therein and pass appropriate orders as per his eligibility and suitability.

2. We have heard the learned Government Pleader for Services (I) (Andhra Pradesh) appearing for the petitioners and the learned counsel for the respondent/applicant.

3. Learned Government Pleader for Services (I) (Andhra Pradesh) contended that in terms of G.O.Ms.No.98 dated 15.04.1986 the applicant has not filed the application within one year from the date of displacement and according to her, the respondent herein was displaced on 14.09.1989. Therefore, she prays to set aside the impugned order.

4. On the other hand, learned counsel for the respondent herein contended that in view of the Memo No.480-LAR(2)87/2, dated 24.08.1987, the condition stipulated in G.O.Ms.No.98 in regard to filing of an application within one year has been dispensed with and that a specific plea has been taken by the respondent herein in the OA that he was displaced in the year 1985 by the time of acquisition of the land and the house and therefore, the

above said G.O.Ms.No.98 has no retrospective application. Hence, he prays to dismiss the writ petition.

5. A perusal of the impugned order would go to show that the Original Application was disposed of at the stage of admission on the ground that it was covered by the orders passed by the Tribunal in OA.No.7917 of 2003 dated 16.07.2007. The relief sought for in the OA was to direct the respondents therein to appoint the applicant as a Junior Assistant or in any other suitable post in terms of G.O.Ms.No.98 dated 15.04.1986; G.O.Ms.No.44 dated 31.03.1999 and Government Memo No.480 – LAR(2)/87/2 dated 24.08.1987. The direction given by the Tribunal is to consider the case of the applicant for appointment in terms of G.O.Ms.No.98 dated 15.04.1986. There is a serious dispute with regard to the actual date of displacement of applicant. As the original application was disposed of at the stage of admission, no opportunity was given to the Government to file a counter affidavit with regard to the factual aspects. The questions - whether or not G.O.Ms.No.98 Irrigation (Proj.Wing) Department dated 15.04.1986 is applicable or Memo No.480-LAR(2)/87/2 dated 24.08.1987 is applicable or not are the matters required to be decided by the Tribunal basing on the factual foundation. Therefore, this Court deems it fit to remand the matter to the Tribunal to consider the matter afresh, on merits after giving an opportunity to the petitioners herein to file counter.

6. Accordingly, the Writ Petition is allowed. The impugned order is set aside and the matter is remitted to the Tribunal with a request to dispose of the OA within a period of four weeks from the date of filing of the counter by the Government. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

K.C. BHANU, J

M. SEETHARAMA MURTI, J

16.04.2015

Vjl