

HON'BLE SRI JUSTICE G.CHANDRAIAH
&
HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

W.P. No. 21862 of 2004

DATE: 17.11.2015

Between:

P. Lakshmi Narayana
and another

.. Petitioners

and

K. Usha Rani
and another

.. Respondents

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

The writ petitioners assert that they have been working as Senior Assistants in Zilla Sainik Welfare Department, Khammam District ever since they were promoted in the years 1991 and 2001 respectively, and as per Final Seniority List, their names stand at serial numbers 6 and 16 for promotion to the posts of Superintendents. While so, it is stated that the

1st respondent herein, who is senior to the petitioners, was also working as Senior Assistant and filed O.A.No. 4236 of 2001 before the Andhra Pradesh Administrative Tribunal, Hyderabad (for brevity "the Tribunal) wherein the writ petitioners are not made parties, and the Tribunal, by order dated 12.03.2004, directed the respondents therein to consider the claim of the 1st respondent for promotion to the post of Office Superintendent along with his juniors who were given promotions on 23.05.2001 and 01.06.2001. In pursuance of the order of the Tribunal, the 1st respondent's case was considered and based on her seniority she was promoted and appointed as Superintendent vide proceedings dated 04.06.1997 issued by the 2nd respondent. However, owing to her personal difficulties, she made a representation dated

07.06.1997 indicating her inability to join the promotional post, and subsequently, claimed promotion on 24.01.2001 based on her earlier representation. Now, the grievance of the writ petitioners is that if the order of the Tribunal is implemented their service career would be adversely effected as their seniority in the existing vacancies as well as the future vacancies is likely to arise in the category of Superintendents. Hence, the present writ petition is filed seeking to set aside the order of the Tribunal.

Inasmuch as the writ petitioners are not parties to the impugned proceedings before the Tribunal, they have filed W.P.M.P.No. 13171 of 2004 seeking leave to file the present writ petition, and this Court, by order dated 24.11.2004, allowed the application, and subsequently on 30.11.2004, while admitting the writ petition, granted interim suspension of the impugned order.

The learned counsel for the petitioners has submitted that so far as the 1st petitioner is concerned he has already retired from service and he is not aware of the present status of the 2nd petitioner and if the 2nd petitioner is still in service his case may be considered for promotion.

The grievance of the 1st respondent herein before the Tribunal is to declare the action of the 2nd respondent in not considering her claim for promotion as Office Superintendent along with others when promotions were

effected on 23.05.2001 and 01.06.2001, and the Tribunal made the following order:

“.....Therefore, having regard to the aforesaid reasons, the respondents are directed to consider the claim of the applicant for promotion to the post of Office Superintendent with effect from the date from which her juniors were promoted. With this direction, the O.A. is disposed of.”

The learned Government Pleader for Social Welfare appearing for the 2nd respondent has submitted that the petitioners were not made parties in O.A. and the case of the 1st respondent for promotion is based on seniority, as such, the 2nd respondent may be directed to consider the case of the 2nd petitioner for promotion if he is still in service when the case of the 1st respondent is considered.

Heard the learned counsel for both the parties and perused the material placed on record.

It is apparent that the petitioners were not made parties to the O.A.No. 4236 of 2001 and having regard to the plea taken by the petitioners that they are eligible for promotion to the post of Superintendents by virtue of their fulfilling requisite qualifications as on the date of filing the writ petition and they stand at serial Nos.6 and 16 of the Final Seniority List of Senior Assistants and in view of the submission that the 1st respondent, having relinquished her earlier promotion temporarily by way of expressing her personal family problems which is not a legal claim by

virtue of the statutory bar under Rule 11(b) read with Rule 28 of A.P. State and Subordinate Service Rules, claimed to consider her promotion on 24.01.2001 based on her earlier representation dated 07.06.1997 and considering the submissions made by the learned counsel for both the parties and having regard to the facts and circumstances of the case, we are inclined to dispose of the writ petition with the following direction:

“The 2nd respondent is directed to consider the case of the 2nd petitioner if not already considered in the event of considering the case of the 1st respondent for promotion to the post of Superintendent, in accordance with law.”

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

17.11.2015

U.DURGA PRASAD

RAO, J

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