

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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WRIT PETITION No.1636 of 2006

ORDER:

This Writ Petition is filed for a mandamus to declare the action of the respondents in issuing proceedings, dated 14.03.2005, rejecting the claim of the petitioner, as arbitrary and illegal.

It is the case of the petitioner that he was working as a Junior Accounts Officer in the respondents-organization. He filed W.P.No.8584 of 1993 seeking a direction to the respondents therein not to revise the integrated seniority list circulated on 25.04.1979 by the Superintendent Engineer, Ramagundam, and further questioned the proceedings, dated 28.06.1993, issued by the Superintendent Engineer reverting him from the post of Junior Accounts Officer.

The grievance of the petitioner is that one I. Rajalingam, who was junior to him, was given promotion as Junior Accounts Officer on 28.06.1993. Aggrieved thereby, the petitioner filed W.P.No.8584 of 1993, on the ground that Rajalingam, the

2nd respondent therein, accepted to forego his seniority in Operation City Circle Unit and to take last rank in Ramagundam Thermal Station (RTS) Circle and to that effect, the then Superintendent Engineer issued Memo, dated 17.08.1977, wherein he was transferred and posted to Ramagundam Thermal Station Circle and the said Writ Petition was disposed of directing the Superintendent Engineer, the 2nd respondent herein, to consider the case of the petitioner for being promoted to the post of Junior Accounts Officer on par with one Rajalingam notionally and extend all other benefits as per law. Challenging the same, the respondents filed W.A.No.1865 of 2004 and a Division Bench of this Court has modified the orders already passed by the learned Single Judge directing the respondents to consider the case of the petitioner in accordance with the existing rules within a period of three months. Basing on the orders passed in the writ appeal, the respondents have issued the

impugned proceedings stating that the petitioner's case has been considered and his promotion on par with respondent No.2 therein to the post of Junior Accounts Officer, is rejected. Aggrieved by the same, the present writ petition is filed.

A counter affidavit is filed by the respondents denying the allegations made by petitioner. It is stated that the petitioner was appointed as Typist, under emergency provisions, on 22.11.1962 and his services were regularized on 23.08.1965. They stated that one I. Rajalingam, retired Junior Accounts Officer, was appointed on 05.02.1965 as LDC, whose services were subsequently regularized, and he was promoted as UDC on 01.06.1969 and for want of vacancy, he was reverted as LDC on 01.12.1969 and again he was promoted as UDC on 16.04.1970 and continued in RTS Circle up to 31.08.1973. Consequent to separation of UDC post in RTS Circle, the surplus staff of RTS Circle were transferred to other Circles by which Sri Rajalingam was transferred and

Sri Ramagopal, who was junior to Rajalingam, was transferred to the office of SE/KTPS/Paloncha. As such, Sri Rajalingam joined at Hyderabad with effect from 07.09.1973, whereas Ramagopal continued at RTS Circle and the transfer of Rajalingam was not at his request and by that time the petitioner was only emergency Typist and, hence, he was not senior to Rajalingam; the petitioner was initially promoted as UDC and then reverted as Typist and again promoted as UDC.

It is further stated that Rajalingam was transferred to City Circle, Hyderabad, on administrative grounds on 01.09.1973 and he has opted for transfer to his parent Circle, Ramagundam, by his representations dated 25.08.1976 and 04.01.1977. The Management considered his case for transfer to RTS Ramagundam but no entries in the Service Register were made by terminating his original seniority at RTS Ramagundam in the proceedings, dated 10.08.1977. It is stated in the proceedings that he would forego seniority in Operation City Circle Unit and take last rank at RTS, Ramagundam. As such, the contention of the petitioner that Rajalingam would become junior to him cannot be accepted.

By order, dated 12.04.1993, in W.P.No.17440 of 1989, this Court directed that on the touch stone of Article 14 of the Constitution of India, Rajalingam shall be

entitled to his seniority without any break in the cadre of UDC in Ramagundam Thermal Station. In pursuance of the above orders, Rajalingam was promoted as Junior Accounts Officer and the petitioner, who was conditionally promoted as Junior Accounts Officer, was reverted as UDC to accommodate him in the existing vacancy.

It is further stated that in W.A.No.1865 of 2004, the case of the petitioner was once again carefully examined and in accordance with the Service Regulations, speaking orders were issued on 14.03.2005. The petitioner has initially challenged the seniority of Rajalingam in W.P.No.8584 of 1993 and after thorough examination when he was intimated that the action taken by the Management is in order, he changed his version that he is not on the seniority, but for implementation of the orders passed by this Court. Hence, the respondents prayed to dismiss the Writ Petition.

Learned counsel for the petitioner submits that though the Division Bench of this Court directed the respondents to consider the case of the petitioner as per the existing rules, but they have not considered and issued Memo No.SE/Rdm/Estt/U1/UDC/ No.1009/77, dated 17.08.1977, wherein it is clearly stated that Rajalingam, would be in the last rank among UDCs., of the Circle with reference to the date of joining in RTS Circle. If that is taken into consideration, I.Rajalingam therein will be ranking after the petitioner for the post of UDC.

From a perusal of the material on record, it is evident from the counter affidavit that proceedings, dated 10.08.1977, have been taken into account, while the impugned order is passed but impugned order does not show that the said proceedings are considered. Even in the impugned proceedings, there is no mention about the memo, dated 17.08.1977.

In view of same, respondents may reconsider the issue in the light of proceedings No.FA&CCA/D.M.IV/8469-J1/76-4 dt 10.08.1977 & Memo No.SE/Rdm/Estt/U1/UDC/No.1009/77, dated 17.08.1977.

With the above observation, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

A. RAJASHEKER REDDY, J

21.01.2015

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