

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

WRIT PETITION Nos.7435 and 7595 of 2015

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri C.V.Mohan Reddy, learned senior counsel and Sri V.Ravichandran, learned counsel appearing on behalf of the petitioners, learned Government Pleader for Services and Sri S.Jagadish, learned counsel for the 1st respondent-caveator; and, with their consent, the writ petitions are disposed of at the stage of admission.

The proceedings under challenge in these writ petitions is the order passed by the A.P. Administrative Tribunal in O.A.No.7058 of 2014 dated 24.02.2015. Aggrieved by the final seniority list of Prohibition and Excise Sub-Inspectors, the petitioners herein preferred an appeal to the Commissioner of Prohibition and Excise contending that the said final seniority list was not preceded by a provisional seniority list, and no objections were invited thereto. The appeal preferred by the petitioners herein was dismissed by the Commissioner of Prohibition and Excise by his order dated 04.05.2012. Aggrieved thereby, the petitioners herein preferred a Revision to the Government and, by order dated 19.08.2013, the Commissioner of Prohibition and Excise was directed to examine the issue in detail taking into consideration the 33 vacancies of the 1981-82 panel and issue necessary orders as per the earlier instructions issued by the Government in Circular Memo dated 21.04.1999. Pursuant thereto the Commissioner of Prohibition and Excise, by his proceedings dated 26.11.2014, commenced the exercise of preparing a provisional seniority list of Prohibition and Excise Sub-Inspectors afresh. Questioning the proceedings of the Government dated 19.08.2013, the respondent herein (applicant in the O.A.) invoked the jurisdiction of the Tribunal and, by the order under challenge in these writ petitions, the Tribunal set aside the said orders passed by the Government dated 19.08.2013, for violation of

principles of natural justice, holding that the respondent-applicant ought to have been given an opportunity of being heard before the said order was passed.

It is not in dispute that the Commissioner of Prohibition and Excise, while passing the order dated 04.05.2012 rejecting the appeal preferred by the petitioners herein, did not put the respondent-applicant on notice nor was he given an opportunity of being heard. The question which necessitates examination is whether every person, whose name is found in the seniority list, is required to be given an opportunity of being heard before the Government directs the Commissioner to re-do the exercise. In this context, it must be borne in mind that the validity of the earlier Circular Memo of the Government dated 21.04.1999 was not subjected to challenge before the Tribunal, nor was it contended before the Tribunal, by the respondent-applicant, that the said Circular memo Dated 21.04.1999 is either illegal or inapplicable in the preparation of the seniority list for the post of Prohibition and Excise Sub-Inspectors. All that the Government has directed, by its proceedings dated 19.08.2013, is for the Commissioner of Prohibition and Excise to examine the issue in detail taking into consideration the 33 vacancies of 1981-82 panel, and issue necessary orders as per the instructions of the Government in Circular Memo dated 21.04.1999.

While a feeble attempt was made by Sri S.Jagadish, Learned Counsel for the respondent-applicant, to place reliance on Rule 26 of the A.P. State Subordinate Services Rules, 1996 (for short "the Rules"), it is evident from Sub-rule (e) thereof that a Revision petition can be preferred to the Government, against the order of the appellate authority, within three months of the order. In the present case, against the order of the Commissioner dated 04.05.2012, the petitioners herein have preferred an appeal to the Government ten days thereafter on 14.05.2012. It is evident, therefore, that Rule 26(e) of the Rules has not been violated.

It is only if the respondent-applicant is able to show that he has suffered substantial prejudice, on his not being given

an opportunity of being heard, can the order of the Government dated 19.08.2013 be said to be in violation of principles of natural justice. As noted hereinabove, the Government has merely directed the Commissioner to re-do the exercise of preparation of the seniority list of Prohibition and Excise sub-Inspectors in accordance with its Circular Memo dated 21.04.1999. In the absence of any challenge to the said memo dated 21.04.1999, the unofficial respondent cannot be said to have suffered prejudice by the direction of the Government to the Commissioner. It is not in dispute that, subsequent thereto, a provisional seniority list has been issued. Any grievance, which either the petitioners or the respondent-applicant may have with regards the provisional seniority list, can be redressed by the competent authority on objections being filed by them thereto. Ends of justice would be met if the order of the Tribunal is set aside, and the petitioners and respondent-applicant are granted 15 days time from today to file their objections, if any, to the provisional seniority list. Needless to state that the competent authority shall consider the objections, if any filed within the afore-stipulated time, and thereafter prepare the final seniority list in accordance with law.

The writ petitions are disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

23rd March 2015.

Note: Issue C.C. by 25.03.2015.

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Date: 23.03.2015

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