

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

Writ Petition No.22462 of 2014

ORDER: *(Per Hon'ble Sri Justice G.Chandraiah)*

This Writ Petition is filed by the Government aggrieved by the order dt:12.07.2012 in O.A.No.2664 of 2012 on the file of Andhra Pradesh Administrative Tribunal (for short "A.P.A.T"), Hyderabad wherein the A.P.A.T. allowed the batch of O.As namely O.A.Nos. 2664, 2665 and 2899 of 2012. As far as the present writ petition is concerned, it is aggrieved by the order dt:12.07.2012 in O.A.No.2664 of 2012.

2) In the impugned order, the learned Tribunal allowed O.A.No.2664 of 2012 in respect of the applicant who was working as Associate Professor as on that date in General Surgery at Government Medical College, Ananthapur and set aside the postings issued in G.O. Rt.No.518 Health, Medical and Family Welfare (A-1) Department dt:31.03.2012.

3) Aggrieved by the same, the Government filed the present writ petition.

4) Along with the writ petition, the Government also filed W.P.M.P.No.28170 of 2014 seeking interim suspension of the impugned order pending the writ petition. This Court while ordering *Rule Nisi* in the writ petition by order

dt:07.08.2014, granted the interim suspension as prayed for. Aggrieved, the respondent/ employee filed the vacate stay petition i.e, W.V.M.P.No.2801 of 2014. The matter is taken up for hearing as an urgent matter on the ground that though the 1st respondent is working as a Doctor, he is not given the posting orders so far to work at any place. In that view of the matter, both the Counsels have requested this Court to dispose of the writ petition itself instead of confining the order to be passed only in the vacate stay petition. That is how, this Court is inclined to dispose of the writ petition.

5) The facts which are not in dispute are, at the relevant point of time, the 1st respondent/employee was working as Professor. While-so vide G.O.Rt.No.518 Health, Medical & Family Welfare (A-1) Department dt:31.03.2012, the 1st respondent was transferred. Questioning the same, the 1st respondent filed O.A.No.2664 of 2012 and the said O.A was allowed on 12.07.2012. While-so, aggrieved by the same, the Government filed the writ petition and obtained interim suspension. In the meanwhile, the Government issued G.O.Ms.No.63 Health, Medical & Family Welfare (A1) department dt:10.01.2013 posting the petitioner as Professor in Kurnool Medical College. The Government issued memo No.7175/A1/2012 dt:10.01.2013 posting the 1st respondent to work on duty at Government Medical

College/ Government General Hospital, Anantapur. According to the 1st respondent/employee, he reported to the duty. While-so, Government issued G.O.Ms.No.65 Health, Medical and Family Welfare (A1) Department dt:02.04.2013, reverting the 1st respondent/employee from the post of Professor to Associate Professor consequent to the judgment of the Supreme Court in the matter of Seniority. Questioning the same, the 1st respondent/employee filed O.A.No.2588 of 2014 before the A.P Administrative Tribunal, Hyderabad. The Learned Tribunal by order dt:01.04.2015 suspended the impugned G.O.Ms.No.65 Health, Medical and Family Welfare (A1) Department dt: 02.04.2014 and the said O.A is pending and the interim suspension is subsisting.

6) The contention of the learned counsel for 1st respondent/ employee is that though the employee was deemed to have been working as Professor, he is neither allowed to report for duty at Kurnool nor at Anantapur. The learned Government Pleader would submit that by virtue of the order of the Government dt:10.01.2013 wherein at which point of time the 1st respondent, who was working as Assistant Professor should report for the duty. Though the counsel for 1st respondent/employee would submit that he reported to the duty but on asking by this Court, the learned counsel for 1st respondent would submit that the Government has not given any posting orders so far.

Therefore, he is nowhere.

7) Taking into consideration the above aspect, we are of the view that the position of the 1st respondent i.e, either he should be continued as Associate Professor or Professor is a matter pending before the Tribunal. The respondent/employee is inclined to serve the department by reporting to duty at Anantapur, Medical College. In that view of the matter, we set aside the order passed by the learned Tribunal and consequently by directing the Government to consider the case of the 1st respondent/employee for issuing the posting orders so as to enable him to work as Doctor. So far as the position of 1st respondent/employee that whether he needs to be continued as Associate Professor or Professor is concerned, we are not inclined to say anything about the same and it is for the Government to consider it by taking into consideration the interim direction granted by the Tribunal.

7) With the above directions, the writ petition is disposed of. No costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

G.CHANDRAIAH, J

Dt: 24.11.2015
SCS

U.DURGA PRASAD RAO, J