

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.15909 of 2016

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Date: 02.06.2016

Between:

B.Ravi Kumar and 2 others

.. Petitioners

and

P.Varadhi and another

.. Respondents

**Counsel for the petitioners :
(AP)**

GP for Services

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The Court made the following:

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Order : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

In the manner we are proposing to dispose of
the Writ Petition, we find it unnecessary to put

respondent No.1 on notice.

Feeling aggrieved by Order, dated 08-12-2015, in CMA.No.94 of 2015 in CA.No.1199 of 2012 in OA.No.10976 of 2008 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), the non-applicants therein have filed the present Writ Petition.

We have heard the learned Government Pleader for Services (Andhra Pradesh) and perused the record.

Respondent No.1 has filed OA.No.10976 of 2008, which was disposed of by the Tribunal *vide* Order, dated 25.08.2011, wherein it was observed that unless the proceedings issued to other similarly situated persons to that of respondent No.1 are cancelled, the said respondent is also entitled to the same benefit and the petitioners were directed to consider grant of special *ad hoc* promotion post Scale-I to respondent No.1 after completion of 16 years of service as mentioned in G.O.(P).No.241, dated 28-09-2005, and pass appropriate orders within six weeks from the date of receipt of the said order. Thereafter, the petitioners

have passed Order, dated 31-10-2011, cancelling the proceedings issued in favour of the persons allegedly situated similar to respondent No.1. As respondent No.1 was denied special *ad hoc* promotion post Scale-I following order, dated 31-10-2011, he has filed Contempt Application No.1199 of 2012. The said application was closed by the Tribunal by Order, dated 29-01-2015, after taking note of the fact that as the orders given in favour of the similarly situated persons were cancelled by Order, dated 31-10-2011, respondent No.1 was also not entitled to the benefit of the special *ad hoc* promotion post Scale-I. It appears that the third parties, against whom Order, dated 31-10-2011, was passed, have filed OA.No.2496 of 2012 questioning the said order and the same was allowed by the Tribunal after it has closed CA.No.1199 of 2012. Respondent No.1 has filed CMA.No.94 of 2015 seeking restoration of CA.No.1199 of 2012 in view of the above-mentioned subsequent event of allowing of OA.No.2496 of 2012. The Tribunal allowed the said application, restored the Contempt Application to file and posted the case for compliance on 19-01-2016. Feeling aggrieved by the said order, this Writ

Petition is filed by the functionaries of the Panchayat Raj Department.

During the hearing, the power of the Tribunal to recall its earlier order closing the Contempt Application has cropped up. However, this Court finds it unnecessary to deal with this aspect at this stage, for, even if the Contempt Application is restored, the same could be contested by the petitioners on its own merits. However, as observed herein before, not only that the Tribunal has restored the Contempt Application to file, but, it has also posted the same “for compliance”. In our opinion, to this extent, the Tribunal has committed an error. Being the respondents in the Contempt Application, the petitioners are entitled to contest the same on merits. If the petitioners are able to distinguish between the applicants in OA.No.2496 of 2012 and respondent No.1, the Tribunal is bound to dismiss the Contempt Application filed by the latter. Therefore, by adjourning the Contempt Application for compliance, the Tribunal has denied the petitioners the opportunity of contesting the Contempt Application on merits. In this view of the matter, while not interfering with the impugned

order of the Tribunal to the extent of restoration of the Contempt Application, only that portion of the impugned order, by which the Tribunal ordered compliance, is set aside. The Tribunal shall give an opportunity of contesting the Contempt Application on merits to the petitioners.

The Writ Petition is, accordingly, allowed to the extent indicated above.

As a sequel, WPMP.No.19684 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 2nd June, 2016
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