

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 43808 of 2016

ORDER: (*Per VRS,J*)

The petitioners, who are third parties to the original application before the Andhra Pradesh Administrative Tribunal, have come up with the present writ petition, challenging an order of the Tribunal.

2. Heard Mr. M. P. Kashyap, learned counsel for the petitioners.

3. The 1st respondent herein filed an original application in O.A.No.5914 of 2013 on the file of the Andhra Pradesh Administrative Tribunal, seeking promotion to the post of Sub-Inspector of Prohibition and Excise, as against the 7th roster point meant for S.C. candidates from 06.06.2016. The said application was pending for about three years, after which, the Tribunal disposed of the same by an order, dated 01.08.2016. The Tribunal merely directed, by its final order, the official respondents to consider the case of the 1st respondent/original applicant, subject to his eligibility and suitability and only if he came within the zone of consideration. Contending that the original applicant before the Tribunal could not be considered against the 7th roster point as he claimed, the petitioners

have come up with the present writ petition challenging the order of the Tribunal.

4. It would be better to extract the operative portion of the order of the Tribunal to see whether the present writ petition can be sustained.

The operative portion of the order of the Tribunal reads as follows:

“The respondents have not filed counter affidavit even after lapse of three years from the date of filing of the O.A. Therefore, the O.A. is disposed of making the interim order dated 06.08.2013 absolute with a direction to the respondents to consider the case of the applicant for promotion to the post of Prohibition and Excise Inspector as per his eligibility, suitability and if he comes within the zone of consideration by keeping in view the Lr.Rc.No.245/2009/A2 dated 09.11.2011 of the Commissioner of Prohibition & Excise, Visakhapatnam addressed to the Secretary to Commissioner of Prohibition & Excise, Hyderabad, if not already considered, within a period of two months from the date of receipt of a copy of this order. No costs.”

5. It is seen from the operative portion of the order of the Tribunal extracted above that the Tribunal has merely directed the Government to consider the case of the 1st respondent, as per his eligibility and suitability, provided he came within the zone of consideration. There was no positive direction to promote the 1st respondent.

6. If the 1st respondent is entitled as per the Rules, then the petitioners cannot have any objection. If he is not entitled as per the Rules, the petitioners cannot make out any grievance. Therefore, the

writ petition is not maintainable at this stage. If the official respondents wrongfully grant any promotion, in violation of the Rules, it will be open to the petitioners to challenge the same before the Tribunal. It is only at that stage the petitioners can have a grievance. Therefore, leaving it open to the petitioners to take a challenge at that time, the Writ Petition is dismissed.

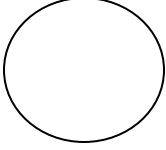
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

U. DURGA PRASAD RAO, J.

6th December, 2016
cbs





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(dismissed)

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