

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 38075 of 2016

ORDER: (*Per VRS,J*)

The petitioner, who originally secured a blanket order prohibiting promotions to the post of Public Prosecutor/Joint Director of Prosecutions, but which order was later modified by the Andhra Pradesh Administrative Tribunal, has come up with the present writ petition.

2. Heard Mr. Ravi Kondaveeti, learned counsel for the petitioner.

3. The petitioner filed an application in O.A.No.2006 of 2016 on the file of the Andhra Pradesh Administrative Tribunal, challenging a Government Order in G.O.Ms.No.60, Home (Courts.A) Department, dated 19.05.2015. By the said Government Order, the seniority assigned to one B. Rama Koteswar Rao was re-fixed by the Government.

4. The prayer made by the petitioner in her original application was to set aside G.O.Ms.No.60, dated 19.05.2015, by which, her own seniority was altered. The interim prayer sought by the petitioner in

her application before the Tribunal was to suspend G.O.Ms.No.60, dated 19.05.2015.

5. But unfortunately, the Tribunal passed an *ex parte* interim order on 22.06.2016 in a batch of applications, granting a blanket stay of promotions. The blanket order of stay granted by the Tribunal on 22.06.2016 reads as follows:

“In the meanwhile, the respondents are directed not to make any promotions to the posts of Public Prosecutors/Joint Directors in the State of Andhra Pradesh”

6. It appears that the said B. Rama Koteswar Rao filed an application for vacating the interim order. On his application for vacating the interim order, the Tribunal, by its order, dated 21.10.2016, modified the earlier interim order to the following effect:

“In view of the above, the interim order granted on 22.6.2016 is modified, directing the respondents to effect promotions to the post of Public Prosecutor/Joint Director of Prosecutions after preparing and finalizing the seniority list in the cadre of Additional Public Prosecutor Grade-I/Deputy Director of Prosecutions, in accordance with the rules, subject to the result of the OAs. VMAs are disposed of accordingly. No costs.”

7. Aggrieved by the said order, the petitioner is before us.

8. There are two flaws in the original order of stay granted by the Tribunal on 22.06.2016. The first is that when a Government Order

re-fixing the seniority of one individual is challenged and a stay of that order alone was sought, there was no question of giving a blanket stay of promotions. The second is that in matters relating to seniority and promotion, the one and only interim order that could be passed by the Tribunal is to declare that any promotion will be subject to the ultimate outcome of the original application. Therefore, the original *ex parte* order of stay granted by the Tribunal on 22.06.2016 itself was flawed.

9. Coming to the modified order passed by the Tribunal on 21.10.2016, all that the Tribunal has done, is to direct the Government to effect promotions, after preparing and finalizing the seniority list in the category of Additional Public Prosecutor Grade-I/Deputy Director of Prosecutions, in accordance with the Rules, subject to the result of the original applications. The objection of the learned counsel for the petitioner is two-fold, namely, (a) that when the seniority list in the feeder category was not altered, the question of promotions would not arise, and (b) that without setting aside or suspending the G.O.Ms.No.60, dated 19.05.2015, the Tribunal could not have allowed promotions to be effected.

10. Both the above contentions can be accepted, only if the original application is allowed. What the petitioner wants is to allow the

original application and to direct the respondents to effect promotions, that cannot be done at the interlocutory stage. After all the Tribunal, which could have actually permitted the respondents to proceed with the grant of promotions without attaching any tag, has virtually done a favour to the petitioner, by directing the Department to finalize the seniority list in the category of Additional Public Prosecutor Grade-I/Deputy Director of Prosecutions. Therefore, the normal Rule, that if anything is done pursuant to the interim orders, it would be subject to the result of the original application, cannot be modified. Therefore, we see no reason to interfere with the order of the Tribunal. Hence, it is dismissed.

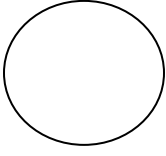
11. In the interest of all the parties, the State is directed to file a counter within four (4) weeks and the Tribunal is requested to dispose of the original application, probably within a period of three (3) months from the date of receipt of a copy of this order.

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.

7th November, 2016
cbs



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