

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.35171 of 2015

Order: (per V.Ramasubramanian, J.)

The petitioner whose claim for appointment under the category of persons displaced from their land on account of acquisition, having been rejected by the Andhra Pradesh Administrative Tribunal, Hyderabad, has come up with the present writ petition.

2. The facts that could be culled out from a counter affidavit filed by the Superintending Engineer before the Tribunal are that the Government had earlier promulgated in an order in G.O.Ms.No.98, Irrigation and CAD (PW) Department, dated 15-4-1986, creating a provision for employment of persons displaced from their lands due to acquisition for major and medium irrigation projects. Under G.O.Ms.No.266, Irrigation and CAD (PW) Department, dated 19-9-1994, the Government also constituted a Selection Committee with the District Collector as its chairman, the Joint Collector as its member and the Chief Engineer of the concerned project as member and convener.

3. It appears that the land belonging to the family of the petitioner was acquired by the Government for the construction of Sri Pothuluri Veera Brahmendra Swamy Reservoir (SPVBSR) under Telugu Ganga Project. Therefore, the petitioner's father submitted an application for

appointment as a displaced person. The Selection Committee selected him for appointment.

4. An appointment order was issued on 11-11-2010 and the petitioner's father reported for duty. Though he continued as a Sweeper for nearly two months from 22-11-2010 to 20-01-2011, his salary was not drawn and paid. This was on account of the fact that the post to which he was appointed by the District Selection Committee was not a sanctioned post.

5. It appears from a report dated 05-02-2011 sent by the Special Collector (Land Acquisition) that the Special Collector had to write to the Pay and Accounts Officer to sanction the pay bills of the petitioner's father for November and December, 2010, on the ground that there was a sanctioned post. However, the Pay and Accounts Officer replied on 18-02-2011 stating that there was no sanctioned post of Sweeper.

6. The Special Collector again wrote to the Pay and Accounts Officer on 22-02-2011, at least to sanction the pay bill of the petitioner's father on the ground that his office was to get a post sanctioned under a scheme called CCLA. But the Pay and Accounts Officer again refused by his letter dated 10-3-2011.

7. All the above admitted facts show that though the petitioner's father was appointed for name sake, he was not

paid salary from the date of his appointment. Eventually he was surrendered and no posting orders were issued.

8. Frustrated at the lip sympathy shown, in the form of an order of appointment that did not work out, the petitioner's father made an application at least to grant appointment to the petitioner. The request was turned down on the ground that there is no provision for the grant of appointment to two members of the same family. Therefore, the petitioner went before the Tribunal and the Tribunal fell into the same error holding that after the grant of appointment order to the petitioner's father, there is no question of granting appointment to the petitioner also.

9. But the stand taken by the respondents and which was accepted by the Tribunal is wholly unfortunate. The offer of appointment granted to the petitioner's father is no appointment in the eye of law. He was appointed as a Sweeper but never paid salary for two months. Even as per the counter affidavit filed by the Superintending Engineer before the Tribunal, the salary of the petitioner's father for the period from 22-11-2010 to 20-01-2011 was drawn only on 01-10-2011, after a long gap of nine months. Therefore, the appointment given to the petitioner's father is no appointment in the eye of law. This fact has been omitted to be taken note of by the Tribunal.

10. Hence, the writ petition is allowed. The order of the Tribunal is set aside and the respondents are directed to

consider the case of the petitioner for appointment and pass orders within a period of 8 (eight) weeks from the date of receipt of a copy of this order. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

09th November, 2016.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.35171 of 2015
(per VRS, J.)



09th November, 2016.
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