

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 39616 of 2015

DATED 18TH JANUARY, 2015

BETWEEN

V.Kailashnath

...Petitioner

And

The State of AP, rep. by its Principal Secretary,
PR & RD Department, Secretariat, Hyderabad and ors.

...Respondents

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 39616 of 2015

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

This Writ Petition is filed against the order dated 27.04.2015 passed in O.A.No.2213 of 2015 by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal') wherein the Tribunal while admitting the aforesaid OA ordered notice to the respondents returnable in six weeks.

The petitioner is a retired Superintending Engineer. It is

his case that according to the confirmed seniority list dated 4.12.2009 and 14.12.2013 of the Deputy Executive Engineers, his name was in the panel year 1987-88 with the date of confirmation as Dy. EE with effect from 1.9.1987. It is his further case that after finalization of the said seniority list, the respondents are bound to conduct DPC from the panel years 2000-2001 to 2010-2011. However, the respondents without conducting the DPC from the panel year 2010-2011 onwards denied the promotion to him on the ground that disciplinary proceedings are pending against him. While so, the petitioner was repatriated to State of Telangana through proceedings dated 5.2.2015 without finalizing the state cadre seniority. Meanwhile, pursuant to the orders of the Tribunal in OA.No.852 of 2015, dated 5.2.2015, the petitioner submitted a representation to consider his case for regularization and consequential service benefits of regular pay in the category of Executive Engineer and Superintending Engineer cadre as per his seniority in the final integrated seniority list of Graduate Dy.EEs dated 14.12.2013. Pursuant to the same, the respondents issued proceedings dated 18.3.2015 rejecting the claim of the petitioner to consider his case for promotion as Executive Engineer and Superintending Engineer on regular basis on par with his juniors on the ground that punishment imposed against him is in currency and his case will be examined after conclusion of the disciplinary proceedings. Aggrieved by the same, the petitioner approached the Tribunal by filing OA.No.2213 of 2015, wherein notice was ordered to the respondents as stated supra.

Having regard to the nature of the proceedings dated

18.3.2015 and relief sought for in the OA, the Tribunal thought valid and proper to issue prior notice to the respondents before passing orders, if any, while admitting the said OA. The principle of *audi alteram partem* warrants issuance of prior notice when the decisions will have "consequences" on a citizen or a party and, therefore, such a citizen or a party is entitled to an opportunity of prehearing if the circumstances justify a prehearing and the same cannot be excluded on various considerations like delay and other factors that are generally pleaded for the exclusion of the said principle. As to the necessity or a requirement of an opportunity of hearing, the Tribunal has no option, but as to the manner and extent of the opportunity that depends on the circumstances of each case, the nature of enquiry and various other factors, would normally directs issuance of notice. In enunciating the principle, the Supreme Court has pointed out, that the same was in the interest of fair-play, good administration and the rule of law envisaged by our Constitution. In view thereof, having regard to the facts and circumstances pleaded in the OA, the Tribunal rightly ordered notice to the respondents while admitting the OA. In that view of the matter, we do not see any illegality or irregularity in ordering notice while admitting the OA by the Tribunal.

The Writ Petition is therefore dismissed. However, this order will not come in the way of the petitioner to get the OA disposed of in accordance with law.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as

to costs.

JUSTICE G.CHANDRAIAH

JUSTICE U.DURGA PRASAD RAO

DATED 18th JANUARY, 2016.
Msnr_x