

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**W.P.Nos.40147 & 41387 of 2016****COMMON ORDER:**

Heard Sri L.Ravichander, learned Senior Counsel, appearing for Sri V.R.Reddy Kovvuri, learned counsel for the petitioner in W.P.No.41387 of 2016 and also for 3rd respondent in W.P.No.40147 of 2016, Sri O.Manohar Reddy, learned counsel for 2nd respondent in W.P.No.40147 of 2016 and for 3rd respondent in W.P.No.41387 of 2016, Sri Gaddam Srinivas, learned counsel for the petitioner in W.P.No.40147 of 2016 and for 4th respondent in W.P.No.41387 of 2016 and Sri A.Yadav Reddy, learned Standing Counsel for Andhra Pradesh Education and Welfare Infrastructure Development Corporation in both the Writ Petitions.

2. These two Writ Petitions relate to the issue of posting the respective petitioners in the Andhra Pradesh Education and Welfare Infrastructure Development Corporation. Therefore, they are being disposed of together.

3. The admitted facts are that Sri P.Pratap Reddy, the client of Sri Gaddam Srinivas, is senior to Sri D.Syam Sundar Reddy, the client of Sri O.Manohar Reddy as well as Sri K.Janardhan Reddy, the client of Sri V.R.Reddy Kovvuri, in the cadre of Deputy Executive Engineers.

4. Due to certain administrative exigencies, these three persons, who are in the cadre of Deputy Executive Engineers, are also working as Executive Engineers in-charge in the said organization at different places.

5. Initially on 01-11-2016, the following orders of transfers and postings were made on administrative grounds:

“1) Sri D.Shyam Sundar Reddy, Deputy Executive Engineer/Executive Engineer (i/c) and Superintending Engineer (FAC), Corporate Office, Hyderabad is transferred and posted as Deputy Executive Engineer/Executive Engineer (i/c), Kurnool duly relieving Sri P.Pratap Reddy, Deputy Executive Engineer/Executive Engineer (i/c), Kurnool/Superintending Engineer (FAC), Kadapa from full additional charge of the post of Superintending Engineer, Kadapa with immediate effect.

2) On transfer, Sri P.Pratap Reddy, Deputy Executive Engineer/Executive Engineer (i/c), Kurnool is posted as Deputy Executive Engineer/Executive Engineer (i/c) in Corporate Office, Hyderabad. He is also kept in Full Additional Charge of the post of Superintending Engineer in the Corporate Office, Hyderabad with immediate effect.

3) Sri K.Janardhan Reddy, Deputy Executive Engineer/Executive Engineer (i/c), APEWIDC, Kadapa Division, Kadapa, is kept in Full Additional Charge of the post of Superintending Engineer, Kadapa until further orders, vice Sri P.Pratap Reddy transferred.

2. The Superintending Engineers APEWIDC, GUNTUR/Kadapa Circles shall take further necessary action in the matter.”

6. Alleging that the above order would post him as Deputy Executive Engineer/Executive Engineer in-charge, Kurnool, which

would fall under K.Janardhan Reddy, who was posted as Full Additional Charge Superintendent Engineer, Kadapa, who is junior to him, D.Syam Sundar Reddy filed W.P.No.39358 of 2016

7. *Prima facie* finding that this would cause in-justice to D.Syam Sundar Reddy, this Court on 15-11-2016 suspended the said order as far as D.Syam Sundar Reddy is concerned.

8. Once this interim order was passed, since the cycle of postings and transfers contained in proceedings dt.01-11-2016 got stalled, Sri P.Pratap Reddy filed W.P.No.40147 of 2016 and on 21-11-2016 this Court suspended the said order as regards him.

9. In view of the two interim orders passed by this Court, proceedings were issued on 24-11-2016 by the Corporation withdrawing its earlier order dt.01-11-2016.

10. However in the said order there is also a reference to an interim order dt.30-11-2010 in W.A.M.P.No.2225 of 2010 in W.A.No.1026 of 2010 which arises out of W.P.No.21559 of 2010 filed by Sri P.Pratap Reddy vis-à-vis one J.Karunakar questioning proceedings dt.16-08-2010 with regard to posting of Executive Engineers in Guntur and Kadapa and who are kept in Full Additional Charge for the post of Superintendent Engineers in the respective circles.

11. After the proceeding dt.24-11-2016 was issued by the Corporation, W.P.No.39358 of 2016 was dismissed as infructuous on 29-11-2016.

12. Challenging the proceedings dt.24-11-2016, the K.Janardhan Reddy filed W.P.No.41387 of 2016 alleging *inter alia* that 2nd respondent could not have placed reliance on the order in W.A.No.1026 of 2010 and recalled its earlier order dt.01-11-2016 and this would practically allow Sri D.Syam Sundar Reddy and P.Pratap Reddy to continue work at their respective places where they had been working for a very long time and this was done with a view to deprive him of an opportunity to work as Superintendent Engineer In-charge in Kadapa.

13. Counter affidavits have been filed by the respective parties in support of their respective stands.

14. Heard the learned counsel on record.

15. Counter affidavits do not dispute seniority of the respective parties as mentioned above. The fact that the initial order dt.01-11-2016, if allowed to stand, would make Sri D.Syam Sundar Reddy worked under the charge of K.Janardhan Reddy is not disputed. In my considered opinion, even on administrative grounds, it is not desirable in the interest of administration to post a senior to work under the supervision of a junior and this would damage the morale of the organization.

16. It is true that posting of all the persons in question as Executive Engineers or Superintendent Engineers is only by way of in-charge arrangement and all the three persons hold the substantive post of Deputy Executive Engineer only and that mere posting them as a Full Additional Charge or as an In-charge would not confer any right on them in the superior post of either Executive Engineer or Superintendent Engineer.

17. However, while the Corporation has full authority to make transfers and postings on administrative grounds even on In-charge basis, it must ensure that no senior is posted under a junior for the aforesaid reasons.

18. Merely because in the order dt.24-11-2016, there is a reference to the interim order passed in W.A.No.1026 of 2010, I am of the view that the said order was not the basis of the order dt.24-11-2016 and essentially it was based on the interim orders passed by this Court in W.P.Nos.39358 and 40147 of 2016 and it was probably felt that contesting the interim orders would entail unnecessary delay which was not in the interest of administration and probably agreeing with the contention of D.Syam Sundar Reddy that the initial order dt.01-11-2016 would cause injustice to him by making him work under his junior K.Janardhan Reddy.

19. Therefore, I am of the opinion that the order dt.01-11-2016 impugned in W.P.No.40147 of 2016 was rightly

withdrawn by the Corporation in the proceedings dt.24-11-2016 and consequently W.P.No.40147 of 2016 also became infructuous.

20. In this view of the matter and since giving force to the order dt.01-11-2016 would result in the petitioner in W.P.No.41387 of 2016, who is junior to D.Syam Sundar Reddy, in cadre of Deputy Executive Engineer to be in a superior position to D.Syam Sundar Reddy, I am of the opinion that the order dt.24-11-2016 also does not require any interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. Accordingly W.P.No.41387 of 2016 is dismissed.

21. However, this will not preclude the Corporation from making the postings and transfers in accordance with law and ensure that a person does not get to work at a place very long and get a vested interest to continue in the same place.

22. In the result, both the Writ Petitions are dismissed. No costs.

23. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-12-2016

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