

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 21909 of 2016
AND
CONTEMPT CASE No. 1274 OF 2016

DATED 9TH AUGUST, 2016

BETWEEN

P. Phani Kumar

....Petitioner in WP & CC

And

The State of Andhra Pradesh,
Rep. by its Special Chief Secretary,
Finance (HR,I,PLG, Policy) Department,
Secretariat, Hyderabad and ors.

...Respondents in WP

A.V. Suryanarayana Rao
Chief GeneralManager, & HRD,
Eastern Power Distribution Company of AP Ltd.,
Corporate Office, Visakhapatnam.

...Respondent in CC.

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 21909 of 2016
AND
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COMMON ORDER:
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The petitioner was appointed as Junior Lineman in the erstwhile Andhra Pradesh State Electricity Board on 01.08.1995 and worked as such under the control of the Divisional Electrical Engineer (Operations) at Kakinada up to 17.11.2004. Subsequently he was transferred to ITDA, Tekkali on 18.11.2004 and worked there up to 20.06.2006. Later he was transferred to Amalapuram town on 21.06.2006 as Additional Assistant Engineer and worked there up to 15.06.2008 and thereafter transferred to the peshi of Chairman & Managing Director, Eastern Power Distribution Company of AP Limited, Visakhapatnam on 16.6.2008 and worked there as Additional Assistant Engineer (Technical) up to 30.07.2009. Thereafter he worked in various places and at present he is working as Additional Assistant Engineer, Commercial-I, Nidadavolu, West Godavari District. The State Government imposed ban on transfer of employees vide G.O.Ms.No.98, dated 04.08.2015 and the same was relaxed for the period from 10.06.2016 to 20.06.2016, subsequently it was extended up to 30.06.2016. The third respondent prepared lists of Assistant Engineers and Additional Assistant Engineers who have completed three years of service in the present post as on 31.5.2016 and the name of the petitioner was figured at Serial No. 57. When orders of transfer were issued on 30.6.2016 transferring the petitioner from Nidadavolu to Seethampeta (Agency Area), the present

Writ Petition was filed challenging the said order.

This Court by order dated 5.7.2016 directed to maintain status quo for a period of two weeks and the same was extended by one more week on 19.7.2016. In the meanwhile when the petitioner was relieved, he filed Contempt Case No.1274 of 2016 alleging violation of the order dated 5.7.2016.

The respondents filed WVMP.NO.2723 of 2016 seeking to vacate the said interim order. Along with the said WVMP, a counter affidavit was filed by the sixth respondent wherein it was stated that the Government issued G.O.Ms.No.102 dated 10.6.2016 issuing instructions with regard to transfer of employees. As per those instructions, the departments may frame additional guidelines to suit their requirements. On 15.06.2016, the AP TRANSCO issued transfer policy and guidelines for the year 2016-17 with a direction that the DISCOMS may adopt the transfer guidelines duly making necessary amendments, if any, based on administrative grounds. Accordingly APEPDCL vide Memo dated 20.06.2016 framed transfer policy guidelines and working instructions to its employees duly lifting the existing ban on transfers of its employees for the period from 20.06.2016 to 30.06.2016. As per the guidelines, no employee shall be retained in the same post for a period of three years as on 31.5.2016 and no employee shall be retained for more than five years in a particular station to the extent possible. Accordingly a list of employees covered by three years service and five years service in the present station and two years of service in the

agency areas was published on 21.06.2016 and employees exercised web options through website. The petitioner herein completed three years eleven months and ten days service in the present post as on 31.5.2016 and as per the guidelines he is required to be transferred. It is further stated that the petitioner rendered long years of service in the plain area and he is less than 50 years of age and not worked two years in ITDA areas. He was therefore transferred and posted as Additional Assistant Engineer/Operations in Seethampet. It is further stated that the petitioner did not work in ITDA area, Tekkali of Srikakulam District and in fact he worked as Additional Assistant Engineer, Operations, Santhabommali for the period from 16.12.2004 to 19.06.2006, nearly eighteen months, which is a rural area and not an ITDA area.

In the light of the above averments, this Court called for information from the respondents and it transpired that the petitioner worked as Additional Assistant Engineer, Operations, Santhabomalli, Tekkali Division for a period of 27 days from 18.11.2004 to 15.12.2004; and in Tekkali, Tekkali Division for a period of one year six months and four days commencing from 16.12.2004 to 20.06.2006. Hence the averment that the petitioner worked in ITDA area found to be incorrect.

However, it is submitted by the learned Counsel for the petitioner that in the case of petitioner, the guidelines framed by the respondents have not been properly followed. As per the aforesaid guidelines and existing Government Orders, transfers are made by way of web options only.

It is to be seen that a Screening Committee was constituted at Corporate Office with the members, viz., (i) Director/Finance & HRD (ii) Director/Operations & Projects, and (iii) Chief General Manager/HRD, to scrutinize the applications received through web site requesting transfer/mutual transfer, place of option etc., Similarly, the Superintending Engineers/Divisional Engineers have been advised to constitute a Committee at Circle level/Division level for smooth flow of transfers at Circle/Division level. In the instant case, the impugned order of transfer was made by the Chairman and Managing Director at the Corporate Office level. Since the information furnished by the respondents shows that the transfers of employees were made on web option basis, information relating it was called for and it is noticed that the petitioner opted for Nidadavole, Bommuru and Rajamahendravaram. It was stated that as the petitioner worked in Nidadavole for three years ten months and ten days, he is liable for transfer. A statement of transfers prepared by the office of respondents was signed by the members of the Committee without applying their mind with regard to consideration of the options exercised by the petitioner. Since the consideration of web option by the employees is one of the pre requisites, the Committee should have applied its mind in proper perspective to the options exercised by the petitioner. The record reveals lack of such application of mind by the members of the Committee. In the circumstances, the impugned order dated 30.06.2016 in so far as it relates to the petitioner is concerned is set aside and the matter is remanded to the third

respondent for placing the matter before the Screening Committee-Respondents 4,5, & 6, for consideration afresh the case of the petitioner in the light of the guidelines issued and web options exercised by him and pass appropriate orders within one week from the date of receipt of a copy of this order. Till the orders are passed by Respondents 4,5 & 6, no transfer shall be effected to.

The Writ Petition is accordingly allowed.

In view of the disposal of the Writ Petition, there is no need to proceed further with the Contempt Case. The Contempt Case is therefore closed.

Miscellaneous petitions pending consideration if any in the Writ Petition and Contempt Case shall stand closed in consequence. No order as to costs.

JUSTICE A.RAMALINGESWARA RAO

DATED 9th AUGUST, 2016.

Note: Office to dispatch the order
within four days.
(BO) Msnr_x