

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

W.P.Nos.40119, 40204, 40217, 40231 & 40234 of 2016

W.P.No40119/ 2016

Between:

Mr. B. Rama Koteswara Rao

PETITIONER

And

1. The State of Andhra Pradesh rep. by its Law Secretary, Law Department, Secretariat, Hyderabad (Presently at A.P. Secretariat, Vellagapudi, Amaravathi) and others.

RESPONSENTS



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AND
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COMMON ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

All these writ petitions arise out of a common order passed by the Tribunal in a batch of Original Applications, modifying the earlier interim order.

2. Heard Mr. M. Ravindranath Reddy, learned counsel for the petitioners in all these writ petitions, learned Government Pleader for Services (Andhra Pradesh), Mr. Ravi Kondaveeti, learned counsel for respondent No.4 in one writ petition and Mr. P. Nagendra Reddy, learned counsel for the respondents in other writ petitions.

3. Five Original Applications came to be filed on the file of the A.P. Administrative Tribunal in O.A.Nos.1977, 2006, 2077, 2155 and 2163 of 2016, challenging a Government Order in G.O.Ms.No.60, dated 19.05.2015. By the said Government Order, the Government issued seniority list of directly recruited Additional Public Prosecutors Grade-II under Rule 33 and Rule 16(h) of the A.P. State and Subordinate Services Rules, 1996 purportedly taking into account the merit list of the selection authority. The contention of the original applicants before the Tribunal was that without finalizing the seniority list in the entry cadre, the seniority list in superior cadre would be of no assistance and that without an opportunity to the original applicants, the entire seniority is attempted to be turned topsy-turvy. In all the Original Applications, the petitioners made interim prayers either to the effect that they should be considered for promotion or to the effect that the impugned Government Order should be suspended pending disposal of the main applications.

4. At the time of ordering notices in the Original Applications, the Tribunal appears to have granted interim stay of all further promotions. Subsequently on applications filed by the respondents before the Tribunal, the interim order was modified to the following effect.

“In view of the above, the interim order granted on 22.06.2016 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.

5. Challenging the modification of the order, one of the original applicants before the Tribunal, viz., Smt. Rafath came up with W.P.No.38075 of 2016. Since we do not approve of any interim order stalling the promotions pending a challenge to the seniority list or orders of promotion, we refused to interfere with the modified order of the Tribunal and dismissed the writ petition on 07.11.2016.

6. Now the respondents in these five Original Applications have come up with the present writ petitions, challenging even the modified order.

7. The first objection of Mr. Ravi Kondaveeti, learned counsel for the 4th respondent is that by the order passed on 07.11.2016 in W.P.No.38075 of 2016 this Court has already directed the Government to file a counter within three weeks and also directed the Tribunal to dispose of the main application within a time frame. Therefore, he requested that the same order may be passed in these cases.

8. But there is a small difference. The petitioner in W.P.No.38075 of 2016 was aggrieved by the modified order of the Tribunal on the ground that there should be an absolute stay of

promotions till seniority lists are finalized. Since we do not approve of such an interim order in any case, we rejected the writ petition.

9. But now the persons aggrieved by the modified interim order are actually aggrieved by the refusal of the Tribunal to vacate the original interim order. We have been repeatedly pointing out that in matters challenging the seniority lists and purported promotions, the one and only interim order that can be passed by a Tribunal is to hold that any promotions will be subject to the result of the Original Application. Otherwise, the entire process gets stalled and in the event of the Original Applications being dismissed, however remote the chances may be, the situation becomes beyond redemption. Therefore, without expressing any opinion on the merits, these writ petitions are allowed. The order of the Tribunal is set aside and it is directed that anything done in pursuance of the order impugned in the main Original Applications, will be subject to the final orders of the Tribunal. As per our earlier order, the Tribunal shall endeavour to dispose of the Original Applications within a time limit that we indicated in the earlier order.

10. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE G. SHYAM PRASAD

1st December, 2016
Js.

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Date: 01-12-2016

Js.