

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Appeal No.647 of 2016

Date:04.8.2016

Between:

P.Venkateswara Rao,
S/o Narayana Murthy and two others.

..... Appellants

And:

The State of A.P., Energy, Infrastructure
& Investment Department, repled by its
Principal Secretary and nine others.

....Respondents

Counsel for the appellants: Mrs. Akella Padma

Counsel for the respondents: Mr. M.Ravindra

The Court made the following:

JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

The appellants were employees of respondent No.3-Company. They felt aggrieved by the action of the said respondent in seeking to retire them on completion of age of 58 years. Therefore, they filed Writ Petition No.19457 of 2016 for a *Mandamus* to declare the action of respondent No.3 in retiring them on completion of age of 58 years, under memo No.DEE/O/APM/JAO/U/D.No.205/2015, dated 09.01.2015, as illegal and unconstitutional and for a consequential direction to the said respondent to continue them up to the age of 60 years by applying the

provisions of the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) Amendment Act, 2014 (Act 4 of 2014). The appellants have filed WPMP.No.23867 of 2016 for an interim direction for their continuance in respondent No.3-Company beyond the age of 58 years. The learned single Judge by order, dated 28.6.2016, dismissed the said application. Feeling aggrieved thereby, the writ petitioners have filed this Writ Appeal.

A perusal of the order under appeal shows that the learned single Judge has declined to grant interim direction sought by the appellants in view of G.O.Ms.No.112, Finance (HR.IV-FR) Department, dated 18.6.2016. The said G.O. is placed before us. Para-4 of the said G.O. reads as under:

“Government having taken stock of all the above developments and after careful consideration hereby orders that the enhanced age of superannuation cannot be made applicable to the employees of the Public Sector Undertakings and Institutions listed in the Ninth and Tenth Schedules of A.P. Re-Organisation Act, 2014 until the matter of division of assets and liabilities of the institution between the states of Andhra Pradesh and Telangana is settled and the allotment of the employees between the two states is finalised for these Public Sector Undertakings/Institutions. Government should be in a position to take a policy decision on the matter only after such process is completed in all respects. Orders issued, if any, by any Department or Public Sector Undertakings/Institutions shall be kept in abeyance with immediate effect.”

Mrs. Akella Padma, the learned counsel for the appellants, has not disputed that the latter fall under

Ninth Schedule of the Andhra Pradesh Re-Organisation Act, 2014 (for short 'the Act'), referred to in the above reproduced para. Though it is brought to the notice of this Court that in some Writ Petitions, the learned single Judges of this Court and also some Division Benches have granted orders in favour of the employees of the Co-Operative Societies, Endowments Department and certain Public Sector Undertakings, in view of the aforementioned G.O. which came into force on 18.6.2016, unequivocally making it clear that the employees of the Public Sector Undertakings/ Institutions falling under Ninth and Tenth Schedules of the Act are not entitled to the benefit of enhancement of age of superannuation, the learned single Judge was justified in declining to grant interim order to the appellants. Therefore, we do not find any merit in this Writ Appeal. However, this order is without prejudice to the contentions raised by the appellants in Writ Petition No.19457 of 2016 and also to challenge the validity of G.O.Ms.No.112, dated 18.6.2016.

Subject to the above observations, the Writ Appeal is dismissed.

As a sequel to dismissal of the Writ Appeal, WAMP.No.1670 of 2016 filed by the appellants for interim relief is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

JUSTICE G.SHYAM PRASAD

*04th August 2016
DR*