

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.19994 of 2016

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Date: 23.06.2016

Between:

Dr.N.Mohan Rao

..Petitioner

and

The State of Telangana,
represented by its Principal Secretary,
Health, Medical & Family Welfare Department,
Hyderabad and 2 others

..Respondents

Counsel for the petitioner: Mr.V.Sree
Ranga Rao

Counsel for respondent Nos.1 & 2: GP for
Services (TS)

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed assailing Order,
dated 10.03.2016, in OA.No.981 of 2016 on the file
of the Andhra Pradesh Administrative Tribunal (for

short 'the Tribunal').

We have heard Mr.V.Sree Ranga Rao, learned Counsel for the petitioner, and perused the record.

The petitioner was appointed as Civil Assistant Surgeon on 10-10-1987 and he was promoted as Civil Surgeon (Specialist) on 02-01-2000. On his relinquishing the promotion, he was reverted to his earlier post of Civil Assistant Surgeon *vide* G.O.Rt.No.80 Health Medical and Family Welfare (F2) Department, dated 21-01-2006. The grievance of the petitioner was that though his juniors were promoted as Deputy Civil Surgeons in the year 2006 and Civil Surgeons in the year 2010, the respondents have not promoted him on the ground that he relinquished his earlier promotion. As the petitioner was not considered for promotion, he has filed OA.No.9154 of 2011 before the Tribunal, which passed an interim order on 30.12.2011, directing the respondents to consider the petitioner's case for promotion as Deputy Civil Surgeon and Civil Surgeon as per his eligibility and qualification and as per rules, by

placing his name in the D.P.C., in any of the existing vacancies or the vacancies that may arise in future. Subsequently, the Tribunal has disposed of the OA by Order, dated 27-08-2013, with a direction to the respondents to consider the proposal pending before respondent No.2 for notional promotion of the petitioner to the post of Civil Surgeon as per Rules and pass appropriate orders within three months from the date of receipt of a copy of the said order. Feeling partly aggrieved by the above-mentioned order of the Tribunal to the extent that it has not directed the respondents to consider his claim for notional promotion to the post of Deputy Civil Surgeon and Civil Surgeon with effect from the date of his joining in the service as per Rules, the petitioner filed WP.No.38344 of 2015. Upon considering the rival contentions, a Division Bench of this Court disposed of the said Writ Petition by Order, dated 04-12-2015, with the observation that as per the submissions advanced by the learned Counsel for the petitioner, the respondents have not promoted the petitioner in spite of the orders of the Tribunal; that the said action of the respondents amounts to

contempt of orders passed by the Tribunal; and that therefore, the petitioner can make an application before the Tribunal complaining of the non-implementation of the latter's order in which case, the latter shall consider and pass appropriate orders thereon. Following the said order, the petitioner filed OA.No.981 of 2016 with the prayer to declare the action of the respondents in not promoting him to the post of Deputy Civil Surgeon and Civil Surgeon with effect from the date of his joining in service as per rules and in not considering his case for notional promotion to the post of Deputy Civil Surgeon and Civil Surgeon with effect from the date of his initial appointment as illegal and to grant all consequential benefits thereof including fixation of pensionary benefits *etc.* As this OA came to be dismissed by the Tribunal, the petitioner filed this Writ Petition.

As rightly observed by the Tribunal, the petitioner cannot be permitted to file successive OAs when it was his grievance as projected before this Court that the respondents have not implemented the order of the Tribunal. Indeed the petitioner failed to take the cue from the

observations of this Court that, in a way, the action of the respondents amounted to contempt of orders of the Tribunal and accordingly, permitting him to make an application for passing appropriate orders. In our opinion, in using the phrase 'application', the Division Bench of this Court has meant the same as contempt application and not a fresh OA. Evidently, for the reason that the limitation for filing contempt has expired, the petitioner, as rightly observed by the Tribunal, filed OA in order to overcome the said difficulty. For the expiry of limitation, the petitioner has to blame himself, for, though as far back as 21-06-2012, order was passed by the respondents, he failed to approach the Tribunal by way of Contempt Application. Having allowed the limitation to expire, the petitioner cannot be allowed to repeatedly approach the Tribunal by filing fresh OAs, one after the other.

For the above mentioned reasons, we do not find any reason to interfere with the order of the Tribunal. The Writ Petition is, accordingly, dismissed. However, we make it clear that this

order will not preclude the petitioner from availing any other appropriate remedy in accordance with law.

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

As a sequel to dismissal of the Writ Petition, WPMP.No.24547 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 23rd June, 2016
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