

THE HON'BLE SRI JUSTICE G.CHANDRAIAH
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

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W.P.NO.2148 OF 2016

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O R D E R (Per the Hon'ble Sri Justice G.Chandraiah)

Heard the counsel for the petitioners and the Government Pleader for Services – I (Telangana).

2. The writ petitioners are the applicants before the Andhra Pradesh Administrative Tribunal. They are working in the cadre of Deputy Executive Engineers and Executive Engineers in the Greater Hyderabad Municipal Corporation in different circles. Government issued G.O.Rt.No.15 Municipal Administration and Urban Development (C1) Department, dated 6.1.2016 placing the services of certain Executive Engineers and Deputy Executive Engineers to the post of Superintending Engineer and Executive Engineers on OHOP basis i.e., on purely temporary basis. The case of the petitioners is that party respondents before the Tribunal are juniors to them and under the said G.O., they were given promotions and therefore aggrieved by the action of the official respondents is not following seniority, they filed O.A.No.8 of 2016 under Section 19 of the Administrative Tribunals Act, 1985. By order dated 8.1.2016, the Tribunal passed the following interim order:

“Notice before admission to the respondents returnable in four weeks.

Meanwhile, the operation of G.O.Rt.No.15, Municipal Administration and Urban Development (C1) Department dated 06.01.2016, issued by the 1st respondent, so far it relates to the party respondents, is suspended for two weeks.

Post the matter on 20.01.2016.”

3. The learned counsel for the petitioners submitted that on 20.01.2016, the matter was listed as item No.42 before the Tribunal, and on that day, the matter was not reached and on 21.1.2016 and 22.1.2016, the matter was list at item nos.58 and 47 respectively, but the same was not reached and that in spite of mentioning to take up the matter out of turn, as the interim order, which was granted on 8.1.2016 was expiring, the Tribunal has not been taking up the

matter and if the matter is not taken up, the writ petitioners, who are seniors would be constrained to work under their juniors. The learned counsel submitted that the respondents have not chosen to file any counter affidavit and in spite of the same, the Tribunal is not taking up the matter either for extending the interim order or for hearing of the O.A. and this is causing hardship to the petitioners and hence the present writ petition.

4. On the other hand, the learned Government Pleader submitted that the Tribunal may be directed to consider the case of the writ petitions and pass appropriate orders.

5. The grievance of the petitioners is that by virtue of the impugned G.O.Ms.No.15 dated 6.1.2016, their juniors are being promoted and rule of seniority is being violated. The Tribunal by interim order dated 8.1.2016, while ordering notice before admission, granted interim suspension in respect of party respondents for a period of two weeks and, thereafter, though the matter is listed under the caption of 'admissions', the grievance of the petitioners is that the same is not being taken up in spite of bring to the notice of the Tribunal that the interim order, granted for two weeks, has been expiring. Section 24 of the Act, deals with interim orders. The said provision is extracted as under for better appreciation:

24. Conditions as to making of interim orders:-- Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to an application unless:--

(a) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter:

Provided that a Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim orders as an exceptional measure if it is satisfied for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated cease to have effect on the expiry of a period of fourteen days from the date of on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

A reading of the above provision makes it clear that the Tribunal shall not pass

any interim order unless documents relied on by the applicants are served on respondent and opportunity of being heard is given to the other party. Under the proviso, it can dispense with the said requirements as an exceptional measure, and pass interim orders, if it is satisfied for reasons to be recorded in writing that it is necessary so to do for preventing any loss being caused to the applicant, which cannot be adequately compensated in money. Further, if the said interim order is not sooner vacated, cease to have effect on the expiry of fourteen days from the date on which it is made, unless the said requirements under clauses (a) and (b) of Section 24 have been complied with before the expiry of that period and that Tribunal has continued the operation of the interim order. In other words, if the ex parte interim order is not extended by the Tribunal beyond the period of fourteen days, it ceases to exist.

6. In the present, the Tribunal has granted the interim order for a period of two weeks as stipulated under the proviso to Section 24 of the Act, but thereafter, as per the case of the writ petitioners that same is not being taken up for hearing either for extension or for passing any orders.

7. In these circumstances, without going into the merits of the case, suffice it to dispose of the writ petition with a liberty to the counsel for the petitioners to make a mention before the Tribunal within one week from the date of receipt of a copy of this order and within one week thereafter, the Tribunal shall consider the claim of the petitioners for extension of interim order and pass appropriate orders in accordance with law. Till then the interim order granted by the Tribunal on 8.1.2016 shall continue.

8. There shall no order as to costs.

9. Miscellaneous petitions pending if any, shall stand closed.

G.CHANDRAIAH,J

U.DURGA PRASAD RAO,J

AVS

DATE:25—01—2016

Note:

Issue C.C. in two days.

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