

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.24782 of 2017

Date: 31.07.2017

Between:

M.Ramulu

... Petitioner

and

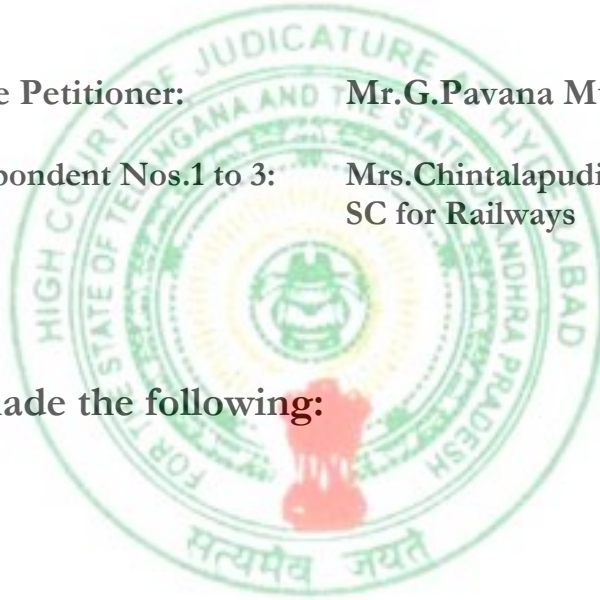
The General Manager
South Central Railway
Secunderabad and 2 others

...Respondents

Counsel for the Petitioner: Mr.G.Pavana Murthy

**Counsel for respondent Nos.1 to 3: Mrs.Chintalapudi Lakshmi Kumari,
SC for Railways**

The Court made the following:



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

Aggrieved by Order, dated 10-04-2017, in OA.No.021/01183/2016, of the Central Administrative Tribunal, Hyderabad Bench at Hyderabad (for short 'the Tribunal'), the applicant therein filed the present Writ Petition.

We have heard Sri G.Pavana Murthy, learned Counsel for the petitioner, and Smt.Chintalapudi Lakshmi Kumari, learned Standing Counsel for Railways.

The petitioner, who entered the South Central Railways, as a casual labourer on 03-08-1977, attained temporary status on 01.01.1982 and was regularly absorbed as yard porter in Operating Department with effect from 17-01-1984. Claiming that he has completed 33 years of service including the service rendered by him as a casual labourer, the petitioner applied for permission for voluntary retirement under the Liberalized Active Retirement Scheme for Guarranteed Employee for Safety Staff (for short 'the Scheme'). He has also sought for providing appointment to his son as per the said Scheme. Questioning the inaction of respondent No.3 on his application, the petitioner approached the Tribunal by way of the aforementioned OA. The said OA was disposed of by the Tribunal by its order, dated 10.04.2017. In the

said Judgment, the Tribunal has taken note of a Judgment of the Punjab and Haryana High Court at Chandigarh in **Kala Singh & others vs. Union of India & others** (CWP.No.7714 of 2016, dated 27.04.2016), whereby while holding that the Scheme does not stand the test of Articles 14 and 16 of the Constitution of India; that the policy is a device evolved by Railways to make back-door entries in public employment; and that it brazenly militates against equality in public employment, it has directed the Railway authorities that hereafter before making any appointment under the offending policy, its validity and sustainability be revisited keeping in view the principles of equal opportunity and elimination of monopoly in holding public employment. Following this Judgment, the Tribunal declined to grant the relief to the petitioner. Feeling aggrieved by this order, the petitioner filed this Writ Petition.

Sri G.Pavana Murthy, learned Counsel for the petitioner, referred to and relied upon Order, dated 05.06.017, passed by a Division Bench of this Court in WP.No.17638 of 2017 wherein a direction was issued to respondent No.2- Divisional Railway Manager to take a decision on the representation made by the petitioner therein within four weeks and communicate the same to the petitioner within one week thereafter.

Smt.Chintalapudi Lakshmi Kumari, learned Standing Counsel for the Railways, submitted that the judgment in **Kala Singh** (cited supra) was carried in an SLP before the Supreme Court and that the same is pending.

In strict sense, as the Scheme was directed to be re-examined by a High Court, unless the said order is set aside, the respondents are disabled from acting under the said Scheme. However, as per the submission of the learned Standing Counsel for the Railways, the judgment in **Kala Singh** (cited supra) has not attained finality. Obviously, keeping this in mind, the Division Bench in WP.No.17638 of 2017 directed respondent No.2 to consider and take a decision on the representation of the petitioner therein. It is, therefore, for respondent No.2 to take a specific stand as to whether in the light of the judgment in **Kala Singh & others** (cited supra), they shall stall further consideration of all representations under the Scheme or continue to implement the Scheme. Hence, without expressing any opinion on this aspect, respondent No.2 is directed to consider the petitioner's representation, take a decision in accordance with law and in the light of the judgment in **Kala Singh & others** (cited supra) and

communicate the decision to the petitioner within six weeks from the date of receipt of this order.

Subject to the above direction, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.30704 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 31st July, 2017
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