

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Petition No.33194 of 2017

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri P.V. Ramana, learned counsel for the petitioner, Sri K. Lakshman, learned Assistant Solicitor General and the learned Special Government Pleader appearing on behalf of the learned Advocate-General for the State of Telangana and, with their consent, the Writ Petition is disposed of at the stage of admission.

The petitioner, hitherto a Section Officer, was promoted as an Assistant Secretary retrospectively vide proceedings dated 10.9.2015 with effect from 9.7.2013. She was finally allocated to the State of Telangana by the Government of India, by its order No. 13(5)(i)/2015 dated 30.9.2016, to the post of Assistant Secretary. This order was passed by the Government of India in the exercise of its powers under Section 77(2) of the A.P. Reorganization Act, 2014 (for short "the Reorganization Act"). The petitioner's grievance is that, though she was relieved by the Government of Andhra Pradesh on 4.10.2016 and she reported for duty to the State of Telangana on the very next day ie, on 5.10.2016, neither has she been taken into duty nor has the Government of Telangana paid her monthly salary for the past more than a year.

Sri P.V. Ramana, learned counsel for the petitioner, would draw our attention to the letter addressed by the Member-Secretary to the Advisory Committee dated 4.2.2017 requesting the Government of India to issue necessary instructions, under Section 81 of the Reorganization Act, to the Government of Telangana to admit the petitioner and issue her posting orders so as to facilitate drawal of her salary.

When the matter came up before us on 5.10.2017 learned Special Government Pleader sought time to obtain instructions. Today, the learned Special Government Pleader would submit that, while the petitioner was promoted vide proceedings dated 13.9.2016 as an Assistant Secretary with

retrospective effect from 9.7.2013, the other Assistant Secretaries were finally allotted prior thereto to the State of Telangana, and all the vacancies of Assistant Secretaries stood filled up because of which the State of Telangana was unable to accommodate the petitioner.

Section 77(2) of the Reorganization Act requires the Central Government, as soon as may be after the appointed day (2.6.2014) by general or special order, to determine the successor State to which every person, referred to in sub-section (1), shall be finally allotted for service, after consideration of the option received by seeking option from the employees, and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

This order, finally allotting an employee to either of the successor States of Andhra Pradesh or Telangana, is required to be passed by the Government of India in the exercise of its powers under Section 77(2) of the Reorganisation Act. This order of the Central Government is binding on both the successor States. As the Government of Telangana did not take the petitioner into service, despite her final allocation to the State of Telangana by the Government of India, the jurisdiction of the Government of India was invoked by the Member Secretary of the Advisory Committee requesting it to direct the Government of Telangana to take the petitioner into service.

On an employee, who was serving the erstwhile State of Andhra Pradesh, being finally allocated to either of the two successor States of Telangana or the residuary State of Andhra Pradesh, the final allocation order passed by the Government of India binds both the successor states, and the said orders must be implemented. Whatever difficulties the State of Telangana may have, they are obligated to comply with the orders passed by the Government of India in the exercise of its powers under Section 77(2) of the Reorganization Act. As the respondents have failed to comply with the order passed by the Government of India dated 30.09.2016, made under Section 77(2) of the Reorganization Act, the petitioner was justified in invoking the jurisdiction of this Court, and in seeking a writ of mandamus.

We consider it appropriate, therefore, to direct respondents 2 and 5 to forthwith take the petitioner into the services of the State of Telangana, and issue her posting orders as an Assistant Secretary to the Government. The petitioner shall be paid salary, from the date of her reporting for duty on 5.10.2016 till date, at the earliest and, in any event, not later than one month from today. The petitioner shall be continued to be paid her monthly salary, along with all other employees, each month.

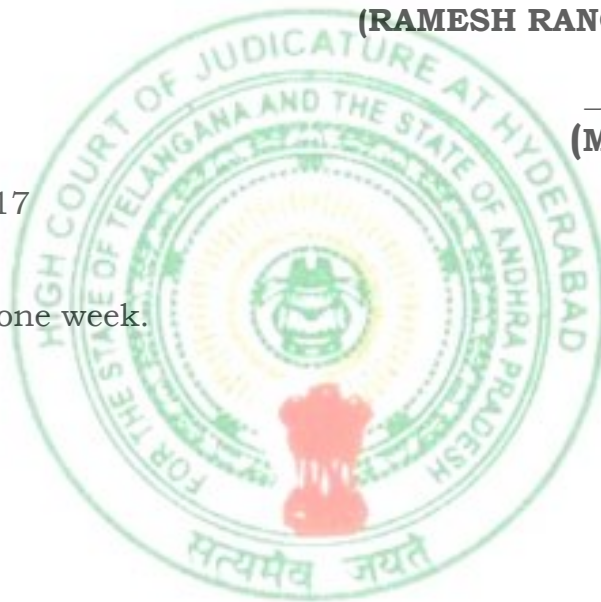
The Writ Petition is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(**RAMESH RANGANATHAN, ACJ**)

(**M. GANGA RAO, J**)

9th October, 2017

Note:
Furnish c.c. in one week.
b/o
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