

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION No. 6470 OF 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the applicant in O.A.No. 59 of 2017 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal'). His prayer in the O.A. was to declare the action of the authorities in not empanelling him for promotion to the post of Deputy Director General of Mines Safety in the DPC held on 15-02-2016 as illegal and consequently direct them to consider and promote him to the said post with all consequential benefits. The Tribunal passed the following order:

"Learned counsel on both sides present.

2. We have heard Mr. K.Sudhakar Reddy, learned counsel for the applicant and Mrs. K.Rajitha, learned Senior Central Government Standing Counsel on the issue of interim relief for some time. We feel that the minutes of the DPC held on 15-02-2016 for filling up the post of Deputy Director General, Mines Safety (Mining) is required for adjudication of this O.A. We were informed that subsequently there was another DPC held in December, 2016 also. We, therefore, direct the respondents to produce the minutes and other records relating to the DPC held on 15-02-2016 and also copy of the minutes of the DPC subsequently held. We further direct the respondents/the applicant to produce the administrative instructions as to how more than one APAR in a particular financial year are to be reckoned i.e. as to whether the average of the different APAR gradings has to be considered or not.

3. We further direct the respondents to permit the applicant to continue in the present post held by him till a regular incumbent is appointed.

4. List on 10-03-2017. In the meantime, the respondents are directed to file reply statement."

Aggrieved by the limited protection given to him, the petitioner is before this Court.

Sri P.Suresh Reddy, learned senior counsel, representing Sri K.Sudhakar Reddy, learned counsel for the petitioner, would contend that the grading given to the petitioner, whereby he was found unfit for promotion, was proposed to be looked into by the Tribunal and therefore at this stage if a regular incumbent is appointed, it would complicate the matter by bringing in third party interests. Sri V.Hariharan, learned counsel for impleaded respondent Nos. 4 and 5, would submit that the petitioner was found unfit as he had the grading 'Good' for two years whereas the newly impleaded respondents had the gradings 'Very Good' during the period which was to be taken into reckoning.

These issues require to be looked into by the Tribunal in the first instance. It would therefore be premature for this Court to go into all these aspects. We are only concerned with the *interim* protection to be afforded to the petitioner pending this exercise by the Tribunal. As the Tribunal found that there was sufficient reason to look deeper into the matter, we are of the opinion that it ought not to have granted *interim* protection to the petitioner only till a regular incumbent is appointed. This, as rightly pointed out by Sri P.Suresh Reddy, learned senior counsel, would involve third party interests unnecessarily. There shall accordingly be a direction to maintain *status quo* insofar as continuing the petitioner in the present post held by him till the Tribunal takes a final decision in relation to the *interim* relief to be granted, if any, to the petitioner in his pending O.A. The Tribunal shall endeavour to complete the exercise expeditiously.

The Writ Petition is accordingly disposed of with the afore-stated directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J.

N. BALAYOGI, J.

28th February, 2017.
JSK

