

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CONTEMPT CASE No.1429 OF 2017

Dated:29.12.2017

Between:

V. Venugopal Reddy, S/o. V. Ramchandra
Reddy, Aged about 38 years, Assistant
Chemical Examiner, Regional Prohibition and
Excise Laboratory, Narayanaguda,
Hyderabad, R/o.2-261, Adarshnagar,
Meerpet, Hyderabad and others

.. Petitioners

And

Sri R.V. Chandravadan, IAS,
Commissioner of Prohibition and
Excise, Government of Telangana,
Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**CONTEMPT CASE No.1429 OF 2017****ORDER:**

Petitioners are working as Assistant Chemical Examiners as on today. A separate channel is provided to them for promotion as Assistant Prohibition and Excise Superintendents. Their grievance is that the respondents are not considering their case for promotion within the feeder channel exclusively meant for Assistant Chemical Examiners. W.P.No.36987 of 2016 was instituted by the petitioners praying to declare the action of the respondents in not following the ratio prescribed to the post of Assistant Prohibition and Excise Superintendents as prescribed in the Special Rules and not considering the case of the petitioners for promotion to the post of Assistant Excise Superintendent from the date of their eligibility for the panal year 2012-13 onwards and sought for consequential directions.

2. In W.P.M.P.No.45572 of 2016 filed in the Writ Petition, the petitioners sought for direction to consider the case of the petitioners for promotion i.e., appointment by transfer to the post of Assistant Prohibition and Excise Superintendents in the cyclic points meant to be filled up from Assistant Chemical Examiners cadre. Though the said Writ Petition was admitted on 31.10.2016, no counter affidavit was filed by the time the said Miscellaneous Petition was considered. The Court, having noticed that the claim made in the petition was for consideration of the case of the petitioners for promotion, disposed of the petition directing the respondents to consider the case of the petitioners if they are suitable, qualified and vacancies are available in the Assistant

Excise Superintendent category from Assistant Chemical Examiner category. Alleging violation of the said directions, this Contempt Case is filed.

3. Learned Government Pleader for Services produced the orders passed by the Commissioner, dated 18.08.2017, rejecting the claim of the petitioners for promotion. Apart from stating other aspects of the issue, it is also stated that sanctioned strength of Assistant Prohibition and Excise Superintendents is 45, out of which, 30 Assistant Prohibition and Excise Superintendents are working on regular basis and 7 are posted to work as in-charge Prohibition and Excise Superintendents by drawing pay in the cadre of Assistant Prohibition and Excise Superintendents and having lien in the lower posts only. There are 8 vacancies available, but all of them are meant to be filled up by direct recruitment and are already reported to the Government. In other words, according to the Commissioner, no vacancies meant promotion are available in order to grant promotion to the petitioners.

4. Learned counsel for the petitioners forcibly contended that the petitioners are denied the rightful claim for promotion and even now the slot meant for Assistant Chemical Examiner remained unfilled and though the petitioners are eligible, they are not granted promotion.

5. This contention of learned counsel for the petitioners may be true and requires serious consideration in the Writ Petition, having regard to the prayer sought, as noted above. However, against the order passed in the Miscellaneous Petition, this Contempt Case is

filed. The direction issued was to consider the claim of the petitioners for promotion from Assistant Chemical Examiners category.

6. The stand of the respondents as reflected in the decision made by the Commissioner would show that as of now there are no vacancies in the promotion cadre and, therefore, petitioners cannot be elevated to that cadre. It may be true that those vacancies are filled up by other source of recruitment, but the issue that persons from other stream are illegally occupying the slots rightfully earmarked for the petitioners, requires consideration in the writ petition.

7. The scope of jurisdiction of the Court in contempt proceedings is limited and what is required to be considered is whether the decision made by the authority would amount to deliberate and willful disobedience of the order of Court and such decision is made with full knowledge of the directions issued and in deliberate violation thereof.

8. The reason assigned in the order of the Commissioner, dated 18.08.2017, may be a plausible reason, validating of which requires consideration in the Writ Petition, but, in the facts of this case, said order of the Commissioner, would not amount to deliberate and willful disobedience of the order of this Court made in W.P.M.P.No.45572 of 2016, warranting initiation of proceedings under the Contempt of Courts Act, 1971.

7. The Contempt case is accordingly closed.

P. NAVEEN RAO, J

Date:29.12.2017
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