

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT.JUSTICE T. RAJANI**

WRIT APPEAL No.673 of 2017

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P.No.623 of 2017 in W.P.No.561 of 2017 dated 27.03.2017.

The appellant herein is the petitioner in W.P. No.561 of 2017. He filed the said writ petition seeking a mandamus to declare the action of the second respondent, in reverting the petitioner to the former post of Conductor *vide* proceedings dated 16.12.2016 without issuing notice to him, as arbitrary and illegal. He sought a consequential direction to the respondents to continue him as the Assistant Depot Clerk in the respondent-Corporation. It is only after he filed the writ petition, did the appellant herein implead the fourth respondent as a party to the writ petition.

In the order under appeal, the learned Single Judge observed that, by the impugned order dated 16.12.2016, the petitioner was reverted from the post of Assistant Depot Clerk to that of Conductor on the ground that his senior Mr. Y. Srinivasulu (fourth respondent) was ignored while promoting the petitioner against a vacancy reserved for the ST category. The learned Single Judge expressed his disinclination to suspend the impugned order as it would mean restoring the petitioner to the post from which he was already reverted more so, as the fourth respondent was senior to the petitioner, and he was ignored while granting promotion to the petitioner.

While Sri S.D.Gowd, learned counsel for the appellant, would contend that the appellant was reverted and the fourth respondent was appointed in his place though the fourth respondent had made a representation 2½ years after the appellant was promoted as an Assistant Depot Clerk, Sri A. Rama Rao, learned Standing Counsel for the respondent-Corporation, would contend that it is not in dispute that the fourth respondent is senior to the appellant; he should have been promoted as an Assistant Depot Clerk before the appellant was promoted; and the Corporation had merely rectified this anomaly, and has promoted the fourth respondent, who is admittedly senior to the appellant herein.

The questions whether the fourth respondent could have been promoted as Assistant Depot Clerk 2½ years after the appellant was promoted to the said post, and whether the fourth respondent should have been promoted as he was senior to the appellant, are required to be adjudicated in the writ petition only after the fourth respondent is given an opportunity of being heard. The learned Single Judge has merely dismissed the W.P.M.P on the ground that the order dated 16.12.2016, reverting the appellant as a Conductor, could not be set at naught at the interlocutory stage.

While an appeal may lie under Clause 15 of the Letters Patent, against an interlocutory order, in cases where the legal rights of the appellant are violated, interference under Clause 15 of the Letters Patent would be justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal necessitating interference in proceedings under Clause 15 of the Letters Patent. Suffice it to make clear that, as and when the writ petition is taken up for final hearing, the same

shall be disposed of on its own merits without being influenced by the observations made either in the order under appeal or in the order now passed by us.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

Date: 05.06.2017
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(T. RAJANI, J)



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