

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT. KONGARA VIJAYA LAKSHMI

Writ Petition No.39230 of 2016 and
Writ Appeal Nos.1239 and 1258 of 2016

DATED:11-10-2017

W.P. No.39230 of 2016

Between:

T. Govinda Reddy

... Petitioner

And

K.R. Naga Raju
and others

... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Surender Rao, for
Mr. M. Srinivasa Rao

COUNSEL FOR RESPONDENT NO.1: Mr. R.V. Mallikarjuna Rao
COUNSEL FOR RESPONDENT NOS.2 and 3: G.P. for Services
(TS)

THE COURT MADE THE FOLLOWING:

COMMON JUDGMENT: *(per the Hon'ble Sri Justice C.V. Nagarijuna Reddy)*

These three cases raise common issues. Hence they are heard and being disposed of together.

2. The dispute pertains to inter se seniority among three different categories of Police Officers, i.e., Inspectors, Deputy Superintendents of Police (DSPs) and Additional Superintendents of Police (ASPs). W.P. No.39230 of 2016 pertains to the category of DSPs, while W.A. Nos.1239 and 1258 of 2016 relate to the category of Inspectors Police.

3. Respondent No.1 in the writ petition filed O.A. No.4159 of 2014 before the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal") to declare the seniority of accelerated promotees either to Inspector or DSP category shall be from the actual date of orders of promotion and placement in the seniority list in the relevant unit of appointment and below the last regular candidate as on the date of his working in that unit of appointment as contained in G.O. Ms. No.18, dt.22.1.1998. He has also sought for a consequential direction to the official respondents to accord seniority and placement to him as Inspector of Police and DSP above his juniors who were appointed to such categories subsequent to the applicant as per law and also as per earlier orders of the Tribunal and to issue regularization orders to

him in the category of ASPs. The interim order passed by the Tribunal on 11.07.2014 reads as under:

“Pending disposal of the O.A., the respondents are directed to issue orders placing the applicant in the seniority list of Inspector of Police in Zone – V as per G.O. Ms. No.18 dated 22.1.1998 by appropriately amending the existing seniority list to that extent, and place him above the candidates who are Superintendents of Police, and continue the applicant in the present status within a period of four weeks from the date of receipt of copy of this order.”

4. The said O.A. came to be disposed of by the Tribunal by order dt.01.08.2016 by making the aforesaid interim order absolute. After disposal of the aforesaid O.A., the Tribunal was abolished as far as the State of Telangana is concerned. Therefore, respondent Nos.1 to 5 in Writ Appeal Nos.1239 and 1258 of 2016 filed Writ Petition Nos.36910 and 36908 of 2016 respectively before this Court claiming the same relief as was granted in O.A. No.4159 of 2014. The learned single Judge disposed of the writ petitions by separate orders dt.31.10.2016, in terms of order dt.01.08.2016 in O.A. No.4159 of 2014. The appellants in both the aforesaid writ appeals have filed the same with the leave of this Court as they were not parties to the aforesaid two writ petitions, assailing the orders of the learned single Judge passed in the said writ petitions. A Division Bench of this Court, by interim order dt.16.11.2016 in W.A. No.1239 of 2016 suspended the operation of the order dt.01.08.2016 in O.A. No.4159 of 2014 and it by interim order

dt.25.11.2016 in W.A.M.P. No.2716 of 2016 in W.A. No.1258 of 2016 also suspended order dt.31.10.2016 in W.P. No.36908 of 2016. The order dt.01.08.2016 passed by the Tribunal in O.A. No.4159 of 2014 was questioned by one T. Govinda Reddy, DSP, Police Training Centre, Amberpet, in W.P. No.39230 of 2016 with the leave of this Court.

5. We have heard Mr. M. Surender Rao, learned Senior Counsel for the petitioner in W.P. No.39230 of 2016 and appellants in W.A. No.1239 and 1258 of 2016 and, Mr. R.V. Mallikarjuna Rao, learned counsel for respondent No.1 in the writ petition and respondent Nos.1 to 5 in the writ appeals, and also the learned Government Pleader for Services (TS).

6. While Mr. R.V. Mallikarjuna Rao submitted that so far final seniority list among different categories of officers in the Police Department in the State of Telangana has not been finally settled, Mr. M. Surender Rao, learned Senior Counsel, while disputing the said submission stated that after calling for objections, a final seniority list was published on 22.2.2014 and that ignoring the said final seniority list, based on the interim order granted in O.A. No.4159 of 2014, dt.11.7.2014, the Government of Telangana has issued G.O. Ms. No.130, dt.19.8.2014, G.O. Ms. No.139, dt.4.9.2014 and G.O. Ms. No.140, dt.4.9.2014 fixing the seniority of respondent No.1 in the writ petition, the nonofficial

respondents in the writ appeals, and also various other similarly situated persons, with effect from the dates even anterior to their promotions, that challenging the said G.Os, some similarly situated persons have filed O.A. Nos.5265, 5428 and 5429 of 2014, that the Tribunal by interim order dt.11.09.2014 suspended the said G.Os and that the said interim order is still in force. The learned Government Pleader submitted that after the publication of the final seniority list vide G.O. Ms. No.54, dt.22.2.2014, several representations were received by the official respondents as a result of which, a fresh litigation ensued and that in pursuance of certain directions issued by the Supreme Court as well as this Court, a fresh zonal-wise seniority list for Zones V and VI was prepared on 13.12.2016 and promotions are proposed to be effected to all the three categories of the Police personnel.

7. The conspectus of the facts recorded above would show that the respective rights of the parties have not got crystallized so far as regards their seniority. The three O.As filed by the similarly situated persons are still pending and G.O. Ms. Nos.130, 139 and 140 issued in favour of the nonofficial respondents in both these cases are under challenge and they remain under suspension under the interim order of the Tribunal. However, the nonofficial respondents mainly harped upon the final order in O.A. No.4159 of 2014. A perusal of this order shows that the Tribunal has

disposed of the O.A. by passing a rather perfunctory order observing that counter affidavit is not filed by the respondents and that on perusal of the material on record and hearing both sides, interim order granted on 11.7.2014 is made absolute with the direction to the official respondents to place respondent No.1 in the writ petition in the seniority list of Inspectors of Police in Zone-V as per G.O. Ms. No.18, dt.22.1.1998, by appropriately amending the existing seniority list to that extent, and the consequential reliefs sought for in the O.A. In our opinion, the Tribunal has committed a serious error in not adjudicating the O.A. on merits. Even if a counter affidavit is not filed, the applicant in the O.A. is not automatically entitled to the grant of relief unless he satisfies the Tribunal on the merits of the case. It is trite position of law that no relief can be granted by a Court or Tribunal merely on the default of the respondents to properly contest the case, unless the Court is satisfied that the petitioner before it has made out a case for granting such relief.

8. In this view of the matter, we are of the opinion that the impugned order in W.P. No.39230 of 2016 is not sustainable and the same is accordingly set aside and O.A. No.4159 of 2014 is restored to file. Since the orders in W.P. No.36910 and 36908 of 2016 were passed based on the order in O.A. No.4159 of 2014, which is set aside in this judgment, these orders are also liable to be

and accordingly set aside. As the Tribunal has been abolished, qua the State of Telangana, the Registry shall take appropriate steps to get the O.A. transferred to the file of the High Court, along with the original record from the Tribunal, register the same as “Transferred Writ Petition” within one month from the date of receipt of this order.

9. As regards O.A. Nos.5265, 5428 and 5429 of 2014, we are informed that consequent upon the abolition of the Tribunal they have been transferred to this Court and registered as Transferred Writ Petitions. The Registry shall verify this aspect and ensure that these three Transferred Writ Petitions along with the writ petition to be registered in the place of O.A. No.4159 of 2014 are posted together before the learned single Judge having roster to hear the cases, within two months from the date of receipt of this order.

10. In the result, W.P. No.39230 of 2016 and W.A. No.1239 and 1258 of 2016 are allowed subject to the above terms. The promotions, if any, that may be effected pending the aforesaid Transferred Writ Petitions, shall be subject to the result thereof.

As a sequel to allowing the writ petition and the writ appeals, W.V.M.P. No.2802 of 2017 and W.P.M.P. No.48349 of 2016 in W.P. No.39230 of 2016; W.A.M.P. Nos.318 of 2017 and 2660 of 2016 in W.A. No.1239 of 2016; and W.A.M.P. No.391 of 2017 and

W.A.M.P. No.2716 of 2016 in W.A. No.1258 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

11-10-2017

bnr

