

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.9371 of 2004

Date: 17.08.2017

Between :

G. Bhaskar and others.

... Petitioners

And

The Municipal Corporation, Kurnool District,
rep. by its Commissioner and others.

... Respondents

COUNSEL FOR PETITIONERS : Mr. P.Raghavendra Reddy

COUNSEL FOR THE RESPONDENTS :

Sri B. Hanumantha
Rao, SC for R-1 (N.A.)

Sri Mehdi Hussain for R.2 & 4

Smt. V. Hima Bindu for R-3 (N.A.)

THE COURT MADE THE FOLLOWING:

ORDER : (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed feeling aggrieved by the order dated 05.05.2004 in O.A.No.3107 of 2000 with M.A.No.1805 of 2001 (along with O.A.No.8700 of 2000) passed by the A.P. Administrative Tribunal, Hyderabad (for brevity "the Tribunal").

2. The petitioners have joined the erstwhile Kurnool Municipality as NMRs/Work Maistris in the year 1981. Their services were regularized with effect from 31.08.1991. In pursuance of the Circular dated 28.12.1995, the petitioners were promoted as Junior Assistants on 30.03.2000. Respondent Nos.2 and 3 working as Bill Collectors and respondent No.4 working as Record Assistant, filed the aforementioned O.A., questioning the promotion of the petitioners as Junior Assistants.

3. Their main plea in the O.A. was that as per the rules framed under G.O.Ms.No.292, Municipal Administration and Urban Development (L-3) dated 16.05.1992, a person occupying the Technical Post is not entitled to be promoted to a Non-technical Post and that as the petitioners were holding the Technical Post, they were not eligible for being promoted as Junior Assistants, which is a Non-technical Post.

4. A plea was advanced on behalf of the petitioners that as the Kurnool Municipal Corporation was constituted with

effect from 18.03.1994, the rules framed under G.O.Ms.No.292, dated 16.05.1992, applicable to the A.P. Municipal Subordinate Services have no application to the Kurnool Municipal Corporation and that as no separate rules were framed for the said Corporation, there was no bar on the promotion of the petitioners to the posts of Junior Assistant. The Tribunal without rendering any specific finding, as to whether the rules framed under G.O.Ms.No.292, dated 16.05.1992, apply to the Kurnool Municipal Corporation or not, set aside the promotions of the petitioners on the ground that it is against justice and equity as the persons holding Technical Posts cannot be promoted to Non-technical Posts, thereby depriving the Non-technical employees holding the posts in Feeder Category of their due promotion.

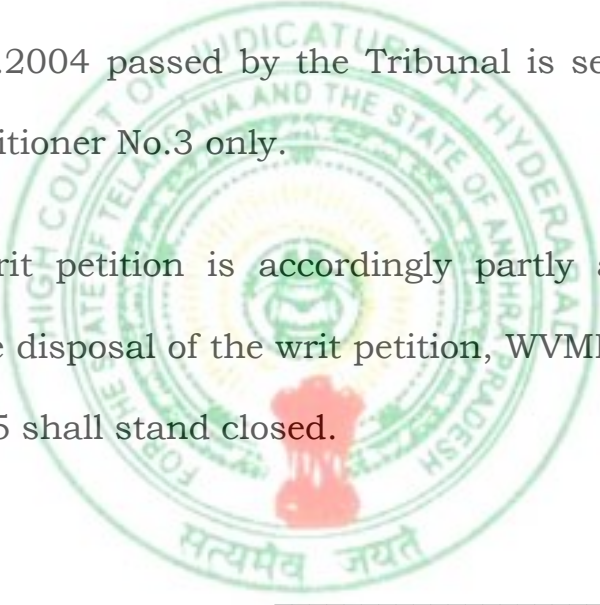
5. At the hearing, learned counsel for the petitioners submitted that petitioner No.1 having already been reverted, and petitioner No.2 having retired, the cause in the writ petition survives in respect of petitioner No.3 only. He further submitted that respondent Nos.2 to 4, who succeeded before the Tribunal, have already been promoted as Junior Assistants.

6. This submission of the learned counsel for petitioners is not disputed by Sri M. Mehdi Hussain, learned counsel for respondent Nos.2 and 4.

7. In view of these subsequent events, whereby respondent Nos.2 to 4 have also been promoted as Junior Assistants and the further fact that petitioner No.3 is being continued as Junior Assistant all through for the last 17 years, in the interest of equity and justice, it would be appropriate to continue petitioner No.3 as Junior Assistant. As regards petitioner Nos.1 and 2, the writ petition has become infructuous.

8. For the aforementioned reasons, the impugned order dated 05.05.2004 passed by the Tribunal is set aside to the extent of petitioner No.3 only.

9. The writ petition is accordingly partly allowed. As a sequel to the disposal of the writ petition, WVMP.Nos.519 and 2248 of 2005 shall stand closed.



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

17.08.2017.
Msr

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