

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No.8895 of 2004

DATE:- 10-08-2017

Between:

The Government of Andhra Pradesh,
Rep.by its Principal Secretary, Home Department,
Secretariat, Hyderabad and 2 others

..... PETITIONERS

AND

K.V.Narayana Murthy (Rtd.)

.....RESPONDENT

COUNSEL FOR THE PETITIONERS : G.P.FOR SERVICES

COUNSEL FOR RESPONDENTS : None appeared

THE COURT MADE THE FOLLOWING:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No.8895 of 2004

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

This writ petition is filed by the erstwhile Government of Andhra Pradesh, to which the State of Telangana has succeeded, and its functionaries of Stationery and Stores Department, feeling aggrieved by the order, dated 07.02.2003, in O.A.No.6513 of 1993, on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short "the Tribunal").

2. Though the respondent was served, he has not entered appearance.

We have heard the learned Government Pleader for Services.

3. The respondent has entered service as Copy Holder on 21.07.1955. He was promoted as Computer with effect from 11.07.1956, and he was further promoted as Head Computer on 21.01.1964. He retired from service on 31.05.1991. While he was in service, he went on making representations for granting him Special Promotion Post-II (for short "SPP-II"). By proceedings in L.Dis.Memo.No.2552/Adm.B3/88, dated 25.08.1989, petitioner No.2 has rejected his request, on the ground that though he was temporarily promoted as Chief Computer in the year 1982, he declined the said promotion. The respondent, however, succeeded before the Tribunal in the aforementioned O.A.

4. The claim of the respondent is traceable to G.O.(P) No.2, Finance and Planning (Finance Wing-P.R.C-I) Department, dated 4th January, 1988. Para-4(vii) of the said G.O. reads as follows:

“(vii) On completion of 22 years service which counts for increments, an employee shall be eligible to be placed in the scale applicable to the next promotion scale over the First Special Promotion Post, which happens to be the next promotion post to the first level promotion post to the original post held by him under the relevant rules. This is subject to the condition that he is fully qualified to be promoted to such promotion post, and also that such post should

belong to the regular line and not outside the regular line. This scale shall be called "Special Promotion Post Scale-II". Such of the employees only as have put in 22 years of service in one post without getting any promotion shall be considered for appointment to the Special Promotion Post Scale-II and in case the employee holding First Promotion Post regularly prior to the completion of 22 years, such employees shall not be entitled to Special Promotion Scale-II."

5. The order of rejection of the respondent's claim for sanction of SPP-II *inter alia* contains the following reasons:

"The case has been examined in detail and it is found that Sri K.V.Narayana Murthy, Head Computer Government Regional Press, Kurnool was promoted as Chief Computer on 12.2.1982 vide Pro.No.7156/DP-A2/81, dt.12.2.1982 but he has refused to accept the said promotion under some pretext or other. Therefore, he was informed that he had to forego his right of promotion in future vide Pro.No.7156/SP-A2/81, dt.19.3.1982.

As per the clarification of Government issued in Memo.No.007/375/PRC.I/88, dt.26.10.88 Sri K.V.Narayana Murthy, Head Computer, Government Regional Press, Kurnool is not eligible for the benefit of the Automotive Advance Scheme i.e., Special Promotion Post Scale-II in terms of G.O.(P) No.2 Finance and Planning Dept., dt.4.1.1988."

6. Two grounds on which the Tribunal has allowed the claim of the respondent are (1) that the Government clarification, issued in Memo, dated 26.10.1988, is subsequent to the respondent acquiring eligibility for SPP-II, and (2) that in the case of one Abdul Hussian Siddique, who also declined the promotion as Chief Computer, SPP-II benefit was given.

7. The language of Para-4(vii) of G.O.No.2 (extracted supra) is specific and unambiguous. Under this clause, such of the employees only who have put in 22 years service in one post without getting any promotion shall be considered for appointment to the SPP-II. Admittedly, the respondent was offered promotion as Chief Computer as far back as the year 1982, but he declined the said offer. Therefore, the respondent failed to satisfy the basic requirement of his not getting any promotion for 22 years. The respondent by foregoing his promotion, rendered himself ineligible for being granted SPP-II. As regards the

clarification, dated 26.10.1988, the same has no relevance whatsoever when the respondent was not eligible for SPP-II under the G.O. itself.

8. The second ground on which the Tribunal granted relief to the respondent, namely, that one Abdul Hussian Siddique who has also declined promotion was given SPP-II. In our opinion, a person cannot get relief based on the plea of negative quality. Even if the petitioner committed a wrong, the respondent cannot insist on the petitioner repeating the similar wrong as one wrong cannot make another right.

9. For the aforementioned reasons, the order of the Tribunal is not sustainable and the same is set aside. The Writ Petition is accordingly allowed.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 10.08.2017
Dsr

