

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Petition No.29439 of 2017

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

The relief sought for in this writ petition is to declare the action of the respondents in not making provisional or final allocation of employees of the Institution of the Lokayukta between the States of Andhra Pradesh and Telangana though they are covered under the Tenth Schedule to the Andhra Pradesh Re-organisation Act, 2014, and in not considering the petitioner's representations dated 3.7.2017 and 22.8.2017, as arbitrary and illegal. A consequential direction is sought to the respondents to determine the allocation of employees between both the States, consequent on bifurcation, with effect from 2.6.2014; and extend the benefit of the age of superannuation of 60 years to the petitioner as he is an employee in the 5th respondent covered under the Tenth Schedule.

Section 75(2) of the A.P. Reorganisation Act, 2014 (hereinafter called the "Act") enables the Central Government, at any time within one year from the appointed day and by notification in the Official Gazette, to specify, in the Tenth Schedule referred to in sub-section (1), any other institution existing on the appointed day in the States of Andhra Pradesh and Telangana; and, on the issue of such a notification, such Schedule shall be deemed to be amended by the inclusion of the said Institution therein.

The 5th respondent was included in the Tenth Schedule in terms of Section 75(2) of the Act. Consequently, Section 75(1) necessitates adherence. Thereunder, the Government of the State of Andhra Pradesh or the State of Telangana, as the case may be, shall, in respect of the Institutions specified in the Tenth Schedule to the Act, located in that State, continue to provide facilities to the people of the other State which

shall not, in any respect, be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions as may be agreed upon between the two State Governments within a period of one year from the appointed day or, if no agreement is reached within the said period, as may be fixed by order of the Central Government.

All that Section 75(1) requires is that the State of Telangana should continue to provide such facilities, to the people of the State of Andhra Pradesh as were being provided to them before the appointed day, ie before 2.6.2014. Consequently, the State of Telangana cannot dis-continue the facilities, which was earlier provided by the Institution of Lokayukta before 2.6.2014, to the State of Andhra Pradesh. It is not even the petitioner's case that the State of Telangana has, in any manner, discontinued providing facilities, regards the Institution of Lokayukta, to the people of the State of Andhra Pradesh.

The complaint, on the other hand, is of failure to finally allocate employees of the Institution of the Lok Ayukta between both the States. It is only on separate Institutions of Lokayukta being established in both the States of Andhra Pradesh and Telangana, would employees of the 5th respondent-institution be required to be finally allocated between both the States; and only if, and after, he is finally allocated to the State of Andhra Pradesh, can the petitioner claim that he is entitled for the benefits of the Andhra Pradesh Public Employment (Regulation of Age of Superannuation) (Amendment) Act, 2014 (hereinafter called the "2014 State Act") made by the A.P. State Legislature after the residuary State of Andhra Pradesh came into existence on 02.06.2014.

The entire premise, on which the present writ petition is based, is that the Institution of Lokayukta would be bifurcated; the petitioner would be allocated finally to the State of Andhra Pradesh; and, consequently, he would be entitled to continue till he reaches the age of superannuation of 60 years. As a separate Institution of the Lokayukta

has not been established for the State of Andhra Pradesh and, as at present, the 5th respondent continues to serve both the States of Andhra Pradesh and Telangana, the petitioner continues to be the employee of the 5th respondent; and consequently cannot, as at present, claim the benefit of the 2014 State Act made by the A.P. State Legislature after 2.6.2014.

The writ petition, as filed, is wholly mis-conceived. We see no reason, therefore, to entertain this writ petition. Suffice it to make it clear that the order now passed by us shall not preclude the petitioner, after a separate Institution of Lokayukta is established for the State of Andhra Pradesh and if he is finally allocated to the State of Andhra Pradesh, to avail his legal remedies seeking extension of the benefit of the age of superannuation of 60 years, which benefit has been extended to employees in the State of Andhra Pradesh.

The writ petition is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

31st August, 2017

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Date: 31.08.2017

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