

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI

WRIT PETITION No. 22263 OF 2017

DATED 13TH OCTOBER, 2017

Between:

Y.Gangi Reddy

... Petitioner

AND

The Joint Director of Sericulture,
Chittoor, Chittoor District,
State of Andhra Pradesh, and others

... Respondents

Counsel for the petitioner

:

Sri A.Tirupathi Goud

Counsel for the respondents

:

G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

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

This Writ Petition is filed for issue of *certiorari* to quash order dated 31-12-2015 in O.A.No. 3911 of 2012 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal') and for a consequential declaration that the petitioner is entitled to repatriation to his parent department *i.e.* Sericulture Department in terms of the condition stipulated in G.O.Ms.No. 59, Panchayat Raj and Rural Development (MDL.I) Department, dated 27-09-2016 with all attendant benefits.

2. The petitioner was appointed in Sericulture Department as Technical Assistant on 10-01-1986. His services were regularized and probation was declared. Subsequently, under proceedings dated 13-05-2002, the petitioner was deputed to work as Panchayat Secretary. In the seniority list prepared on 26-05-2009, the petitioner's name was included at S.No. 29. When the Sericulture Department promoted the junior to the petitioner at S.No. 30 to the post of Technical Officer, he filed O.A.No. 3911 of 2012. The Sericulture Department filed counter affidavit, wherein it has stated that in pursuance of order dated 02-04-2012 passed in O.A.No. 8761 of 2011 filed by certain employees of Sericulture Department,

respondent No. 2 called for options from all such employees who were working on deputation in Panchayat Raj Department including the petitioner as Panchayt Secretary either to get absorbed in the said department or report back to the parent department and that the petitioner submitted his option form on 30-04-2012 opting to get absorbed in Panchayat Raj Department and forego all his rights and position in Sericulture Department by treating the petitioner as permanent employee of Panchayat Raj Department. It is further stated that as on the date of promotion of two Technical Assistants, namely; (1) G.V.R.Chowdary and (2) S.Nagasubbarayudu, as Technical Officers, the petitioner stood at S.No. 29 whereas the aforementioned two officers were at S.Nos. 18 and 19 *i.e.* much above the petitioner. On the aforementioned undisputed facts pleaded in the counter affidavit, the Tribunal dismissed the O.A.

3. We notice from the prayer in the Writ Petition that not only that the petitioner has questioned the order of the Tribunal, he has also inserted an additional prayer based on G.O.Ms.No. 59 which was issued much later *i.e.* on 27-09-2016. In our opinion, the petitioner is not entitled to claim any relief based on G.O.Ms.No. 59 as the same was not the subject matter of the proceedings before the

Tribunal. As held by the Supreme Court in ***L.Chandra Kumar Vs. Union of India***¹, all the Government Servants have to necessarily approach the Tribunal in the first instance seeking redressal of their grievances and this Court under Article 226 of the Constitution of India can only exercise the power of judicial review over the orders passed by Tribunals. Therefore, by declaration of law as above, this Court does not have the original jurisdiction to entertain any claim of a Government Servant before such a claim is raised before and adjudicated by the Tribunal. Hence, the prayer pertaining to G.O.Ms.No. 59 is rejected *in limine*.

4. As regards the order of the Tribunal impugned in this Writ Petition, no exception can be taken to the same. The petitioner has not disputed the fact that on 30-04-2012, he has given his option foregoing all his rights in Sericulture Department. Therefore, he cannot claim the right of promotion in the said department. Even otherwise, as noted hereinbefore, in the counter affidavit, it is clearly stated that the two persons, who were promoted as Technical Officers, are far seniors to the petitioner standing at S.Nos. 18 and 19 in the seniority of Technical Officers while the petitioner was at

¹ (1997) 3 SCC 261

S.No. 29. Thus, on this ground also, the petitioner cannot have any grievance.

5. For the aforementioned reasons, the Writ Petition is dismissed, however, with liberty to the petitioner to avail a fresh legal remedy before appropriate forum if his claim is not properly considered in terms of G.O.Ms.No. 59 dated 27-09-2016.

C.V.NAGARJUNA REDDY, J.

K.VIJAYA LAKSHMI, J.

Date: 13-10-2017.

JSK

