

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION Nos.10292 OF 2014 AND 7784 OF 2017

COMMON ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

Order dated 16.04.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.9212 of 2011 is subjected to challenge in these writ petitions. The State of Telangana, the successor-in-interest to the State of Andhra Pradesh, the first respondent in the O.A., filed W.P.No.7784 of 2017 while the Hyderabad Metropolitan Development Authority (*hereinafter*, 'the HMDA'), the second respondent in the O.A., filed W.P.No.10292 of 2014.

By order dated 16.11.2015 passed in W.P.No.10292 of 2014, this Court granted interim suspension of the Tribunal's order dated 16.04.2013 and the said interim order was extended on 29.12.2015.

Heard the learned Government Pleader for Services, State of Telangana, for the petitioner in W.P.No.7784 of 2017, Sri V.Narasimha Goud, learned counsel for the petitioner in W.P.No.10292 of 2014, and Sri V.Jagapathi, learned counsel for respondent Nos.1 to 3 in both the writ petitions, the applicants in O.A.No.9212 of 2011.

The issue pertains to regularization of services under G.O.Ms.No.212, Finance & Planning (FW.PC.III) Department, dated 22.04.1994. Services of respondent Nos.1 and 2 in the HMDA were regularized by way of G.O.Ms.No.167, Municipal Administration & Urban Development (B1) Department, dated 13.04.2006, and the services of respondent No.3 were regularized *vide* G.O.Rt.No.1401, Municipal Administration & Urban Development (B1) Department, dated 07.12.2006. The said regularization, as per the G.Os., was from the date of issuance of the orders, i.e., prospectively. While so, they seem to have made

representations to the HMDA, leading to the communication of the letter dated 26.05.2011 from the HMDA to the Principal Secretary to the Government, Municipal Administration and Urban Development Department, Government of Andhra Pradesh. Thereunder, the Metropolitan Commissioner of the HMDA recommended that the services of respondent Nos.1 to 3 should be considered for regularization with effect from 03.11.2003, being the date on which clear vacancies were available, instead of 13.04.2006 and 07.12.2006. Alleging inaction on the part of the Government in considering the said proposal of the HMDA, O.A.No.9212 of 2011 was filed by respondent Nos.1 to 3/applicants before the Tribunal. Pursuant to the interim orders passed therein, directing the Government to pass appropriate orders on the letter dated 26.05.2011 of the HMDA, the Government considered the matter and turned down the request of the HMDA *vide* its letter dated 05.01.2012.

By the order under challenge presently, the Tribunal took note of the fact that the services of the applicants before it, respondent Nos.1 to 3, were not regularized though they had put in more than five years of service even prior to 25.11.1993, the cut-off date mentioned in G.O.Ms.No.212 dated 22.04.1994. The Tribunal also noted that proposals were sent by the HMDA to regularize their services with effect from 03.11.2003 but the Government accorded permission only in the year 2006. Having considered the objection of the Government that the G.Os. would only have prospective effect, the Tribunal rejected the same taking note of the decision of the Supreme Court in *District Collector/ Chairman v. M.L.Singh*¹.

Learned Government Pleader for Services does not dispute the fact that clear vacancies were available on 03.11.2003 and that the HMDA

¹ (2009) 8 SCC 480

itself recommended the case of respondent Nos.1 to 3 for regularization of their services with effect from that date. She would however rely upon the second last paragraph in the letter dated 05.01.2012 addressed by the Government to the HMDA, which reads as under:

'In this connection, it is informed that "the regularization that are done as per G.O.Ms.No.212, Finance (PC.III) Department dated 22.4.1994 is giving the benefit of regularize the services to the person concerned only from the date of the issue of the order making it prospective. Therefore, all benefits of regularization of services will be counted only from the date of the issue of order and it cannot be assumed or presumed on the basis of any earlier order in this regard which stand cancelled (for e.g. G.O.Ms.No.212 of Irrigation & Power Department, dated 22.03.1997 etc.) as already explained above. Hence, cases for counting of services for pension and any other purposes for the period prior to the effective date of regularization cannot be acted upon".'

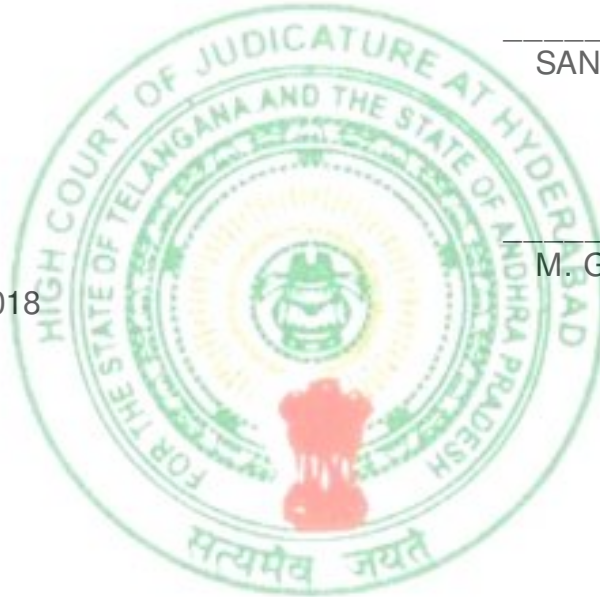
However, we are not inclined to accept the stand taken by the Government in the aforesaid paragraph. Merely because the Government slept over the matter despite the proposals submitted by the HMDA recommending regularization of the services of respondent Nos.1 to 3 with effect from 03.11.2003, it would not enure to its benefit. The claim of the Government that any G.O. would only have prospective effect is self-serving in this regard as the delay in processing the proposal of the HMDA is squarely attributable to the Government itself. Further, given the admitted fact that clear vacancies were available on 03.11.2003 fulfilling the requirement of G.O.Ms.No.212 dated 22.04.1994 and the mandate of the Supreme Court in M.L.Singh¹, we find no error having been committed by the Tribunal in granting relief to respondent Nos.1 to 3 from

the said date. The order under challenge therefore does not brook interference, be it on facts or in law.

The writ petitions are devoid of merit and are accordingly dismissed. The order passed by the Tribunal shall be given effect to expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order.

Interim order dated 16.11.2015 passed in W.P.No.10292 of 2014 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 20.08.2018
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SANJAY KUMAR,J

M. GANGA RAO, J