

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

Writ Petition No.30096 of 2015

DATED:08-03-2018

Between:

Dr. P. Nirmala Jyothi ... Petitioner

And

The State of Andhra Pradesh
Rep. by its Principal Secretary,
Health, Medical and Family Welfare (AI)
Department, Secretariat
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. L. Ravichander,
Senior Counsel,
for Mr. Deepak Misra

COUNSEL FOR RESPONDENT NOS.1 to 3: G.P. for
Services (AP)-I

COUNSEL FOR RESPONDENT NO.4: Mr. P. Rajasekhar

COUNSEL FOR RESPONDENT NOS.5 to 11:

Mr. M. Panduranga Rao, for
Mr. P. Udaya Bhaskara Rao

THE COURT MADE THE FOLLOWING:

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

This writ petition is filed feeling aggrieved by non-granting of interim order by the A.P. Administrative Tribunal (for short, "the Tribunal") regarding promotions to the post of Associate Professor in Ophthalmology for the panel year 2014-15.

2. On 08.02.2017 this Court while admitting the writ petition, passed the following interim order.

"The petitioner seeks a direction to consider her case for promotion to the post of Associate Professor in Ophthalmology for the panel year 2014-15.

We are now informed by the learned Government Pleader that no promotions were effected for the panel year 2014-15 and promotions are now being taken up by clubbing the panel years 2014-15 and 2015-16.

Sri L. Ravi Chander, learned senior counsel appearing for Sri Deepak Mishra, learned counsel for the petitioner, would state that insofar as the discipline 'Ophthalmology' is concerned, in which the petitioner is interested, promotions are sought to be taken up today and tomorrow. Learned senior counsel would further assert that candidates who do not fulfil the eligibility conditions prescribed are sought to be promoted by relaxing the condition with regard to publication of two research papers in National/International journals as a first or second author. He would place reliance on the proceedings dated 07.01.2015 of the Director of Medical Education, Andhra Pradesh, Hyderabad, which prescribes the eligibility conditions as under:

- (1) They should have completed four years of teaching as on 30.08.2014; and
- (2) They should have published two research publications in national/indexed or national associations/societies national journals as first or second author.

This being the prescribed eligibility conditions, we are of the opinion that the authorities would necessarily have to promote only such candidates who fulfil both the eligibility conditions.

As to whether the petitioner has a right to be considered for the panel year 2014-15 can be decided after filing of a counter but in the meanwhile, to prevent a *fait accompli* being presented to this Court, there shall be a direction to the authorities not to effect any promotions to the post of Associate Professor in Ophthalmology in violation of the aforestated conditions, that is to say, unless the candidate sought to be promoted has completed four years of teaching as on the cut off date and has published two research publications in national/indexed or national associations/societies national journals as first or second author, such candidate should not be promoted.”

From the reading of the above reproduced order, it is clear that this Court has not granted a blanket order restraining respondent Nos.1 to 3 from filling up the promotions to the posts. All that this Court has directed was to ensure that the persons who do not satisfy the eligibility criteria are not considered for promotion. The question whether the eligibility criteria prescribed vide proceedings dt.07.01.2015 of the Director of Medical Education, Andhra Pradesh, Hyderabad, apply to some of the impleaded respondents in this writ petition or not, is required to be decided in the O.A. We are informed that the O.A. was partly heard by the Tribunal.

3. In these facts and circumstances of the case, while continuing interim order dt.08.02.2017 the writ petition is disposed of with the request to the Tribunal to consider and dispose of the O.A. as expeditiously as possible.

As a sequel to disposal of the writ petition, I.A. No.1 of 2016 and I.A. No.3 of 2017 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

08-3-2018

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