

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE KONGARA VIJAYA LAKSHMI

CONTEMPT CASE No.1876 of 2018

17.08.2018

Between:

G.Hanumantha Rao

..Petitioner

and

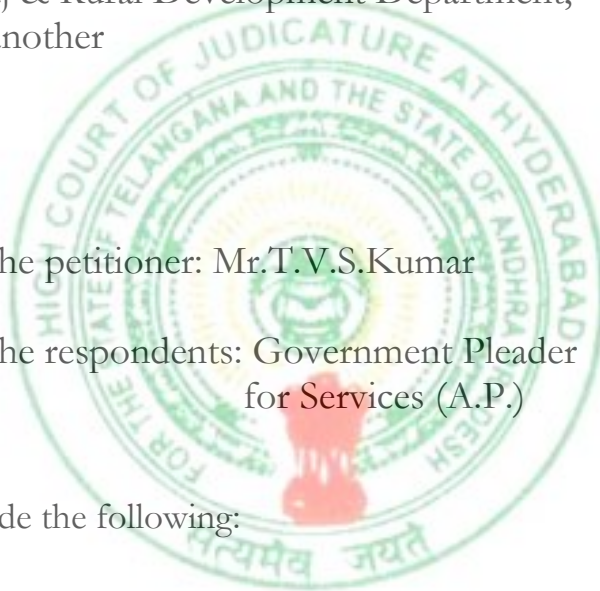
The Principal Secretary,
Government of Andhra Pradesh,
Panchayat Raj & Rural Development Department,
Guntur and another

..Respondents

Counsel for the petitioner: Mr.T.V.S.Kumar

Counsel for the respondents: Government Pleader
for Services (A.P.)

The Court made the following:



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

This contempt case is filed alleging willful disobedience of order, dated 05.10.2017, in W.P.No.31256 of 2017.

2. We find it useful to reproduce the aforesaid order hereunder.

“This writ petition is filed for a *certiorari* to quash order, dated 16.03.2017, in O.A.No.1359 of 2013 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short ‘the Act’).

2. Orders, dated 15.09.2017 and 03.10.2017 passed by us are self-explanatory and instead of repeating the contents of those orders, it is directed that the same must be treated as part of this order. The Chief Secretary of the State of Andhra Pradesh has filed his personal affidavit. In paragraphs 3 and 4 thereof, he has stated as under:

“3. Since this is a general rule applicable to all services, the A.P. State & Subordinate Service Rules need to be amended in the first instance. Accordingly, the Women, Child, Disabled & Senior Citizen Department in consultation with Law and General Administration Departments has already moved a file proposing amendment to A.P. State & Subordinate Service Rules providing 3% reservation for Physically Handicapped employees. The connected file has already been circulated, return of which is awaited. Soon after receipt of the orders on this issue, appropriate amendment to the A.P. State & Subordinate Service Rules will be issued.

4. In view of the reasons stated above, it is prayed that this Hon'ble High Court may please accord atleast three months time or to pass such order or orders as deemed fit and proper in the circumstances of the case."

3. Though this Court feels that unreasonably long time has been taken by the State Government to carry out the amendment, as the Chief Secretary has undertaken to get the Rule amended within three months, time, as requested by him, is granted, leaving the petitioner free to approach this Court in the event the respondents do not adhere to the time limit in bringing out the required amendment.

4. Subject to the above, the Writ Petition is disposed of."

Alleging that the aforementioned order has not been implemented, the petitioner filed this contempt case.

3. In the counter-affidavit filed by respondent No.2, he has, *inter alia*, stated that the Government, *vide* G.O.Ms.No.188, General Administration (SER-D) Department, dated 18.07.2017, issued amendment to Rule 22 of the Andhra Pradesh State and Subordinate Service Rules, 1996, for providing reservations in promotions to the differently abled persons in all services of the State Government, where the cadre strength is more than five (5) against the roster points 6,

31 and 56 and shall be deemed to have come into force with effect on and from 19.10.2011. The deponent also stated that while rejecting the request of the petitioner for promotion to the post of the Deputy Executive Engineer in the 1st vacancy identified on due computation from 29.07.1966, they have considered the case of the petitioner with effect from 19.10.2011, the date on which the amendment was brought into force. The counter-affidavit further explained as to how the petitioner's case has been considered.

4. Mr.T.V.S.Kumar, learned counsel for the petitioner, has submitted that the method of consideration of the case of the petitioner for promotion adopted by the respondents is not legal and proper.

5. We are afraid, we cannot examine the correctness or otherwise of the decision of the respondents while implementing the rule of reservation in promotion in pursuance of G.O.Ms.No.188, dated 18.12.2017, as the scope of this contempt case does not permit such exercise. We can only say that in all fairness the respondents have given the amendment retrospective effect from the date on which proposal was sent and accordingly, the petitioner's case was considered for promotion. If in the process, the respondents have committed

any error that would give rise to a fresh cause of action for the petitioner. As the respondents have complied with the order of this Court in its letter and spirit, they are not liable for being proceeded in contempt.

6. The Contempt Case is, accordingly, dismissed, however, with liberty to the petitioner to avail appropriate legal remedy if his case for promotion in terms of G.O.Ms.No.188, dated 18.12.2017, is not considered properly.



C.V.NAGARJUNA REDDY, J

KONGARA VIJAYA LAKSHMI, J

17th August, 2018

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