

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.30100 OF 2018

DATED :28.09.2018

Between :

Dr.K.Srinivas Rao S/o.(L) Narasimha Rao,
Aged about 47 yrs, working as Civil Surgeon Specialist,
ESI Hospital, Sanathnagar located at Nacharam,
Hyderabad.

.. Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary,
Government of Telangana,
Labour Employment Training & Factories (OP&IMS),
Department, Secretariat buildings,
Secretariat, Hyderabad & others.

.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner, learned Government pleader for Medical and Health for respondents 2 and 3 and Sri J.Sudheer, learned counsel appearing for the 4th respondent.

2. This writ petition is filed praying to grant the following relief :

“... declaring action of respondents in not promoting the petitioner to the post of Special Grade Civil Surgeon from the post of Civil Surgeon Specialist basing on Seniority in the cadre of Civil Surgeon Specialist and making efforts for promoting the 4th respondent who is junior to the petitioner in the cadre of Civil Surgeon Specialist is highly illegal and unjustified, with a direction to the respondents to promote the petitioner to the post of Special Grade Civil Surgeon from the post of Civil Surgeon Specialist basing on the Seniority in the cadre of Civil Surgeon Specialist and pass such other or further order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. The averments in the affidavit filed in support of the writ petition would go to show that petitioner has a grievance regarding not computing the date of joining and date of regularization in the cadre of Civil Surgeon Specialist and that date is not considered while granting further promotion of Special Grade Civil Surgeon.

4. However, the pleadings are silent with regard to preparation of seniority list in the cadre of Civil Surgeon Specialist and further steps taken by the petitioner aggrieved by the placement shown.

5. On oral submissions made by learned counsel appearing for the 4th respondent about preparation of seniority list, learned Government pleader was directed to place on record as to whether any seniority list was prepared and the communication of seniority list.

6. As directed, learned Government pleader produced Memo in Rc.No.11648/E1/DPC/2016 dated 09.09.2017 wherein the final seniority list of Civil Surgeon Specialists is drawn and communicated. In the said list, the name of the 4th respondent is shown at Sl.No.15, whereas the name of the petitioner is shown at Sl.No.20. It appears, petitioner filed a representation on 16.11.2017 against the placement assigned to him. In turn the Government called for remarks from the Director and the Director vide her letter in Rc.No.11648/E1/DPC/2016 dated 18.11.2017 submitted her remarks as to why the placement of petitioner is shown as noted above.

7. The copies of the said documents, which were also circulated to learned counsel for the petitioner, would show that there was a seniority list prepared and communicated and petitioner raised objection on the placement assigned to him in the representation submitted to the Government. These facts are not stated in the affidavit filed in support of the writ petition.

8. A bare look at the prayer extracted above would show that petitioner would state as if there is no seniority list of Civil Surgeon Specialists and promotions are being affected without following the seniority and to declare the action of respondents in not promoting the petitioner to the post of Special Grade Civil

Surgeon from the post of Civil Surgeon Specialist, basing on the seniority in the cadre of Civil Surgeon Specialist.

9. Not disclosing existing seniority list and filing representation to Government against placement assigned would amount to suppression of true and correct facts and on that ground alone, petitioner is disentitled to any relief.

10. The writ remedy is an equitable remedy. Minimum that the writ Court expects from the petitioner invoking extraordinary jurisdiction is fair and frank disclosure of facts which are relevant for consideration and which have a bearing on the prayer sought in the writ petition. Having full knowledge of the existing seniority list and having filed representation to the Government against the seniority list the Court expected the petitioner to disclose these facts in the affidavit filed in support of the writ petition. It may be true that petitioner was wrongly denied proper placement in the seniority list, but to claim appropriate seniority and promotion, it is expected from the petitioner to disclose the correct facts necessitating the Court to consider those facts and to grant appropriate relief.

11. As the issue of existence of seniority list is crucial to the claim set up by the petitioner, the writ petition is liable to be dismissed on the ground of suppression of facts.

12. Accordingly, the Writ Petition is dismissed with costs of Rs.1000/- payable to the Secretary, High Court Legal Services Committee. Pending miscellaneous petitions shall stand closed.

P.NAVEEN RAO,J

28th September, 2018
Rds