

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

WRIT PETITION NO.31955 OF 2018

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the 4th respondent in O.A.No.601 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The said O.A. was filed by the 4th respondent herein assailing the proceedings dated 24.03.2018 of the Assistant Director of Mines & Geology, Andhra Pradesh, Kurnool, whereby he was reverted to the post of driver, on the ground that the relinquishment made by him earlier would be final and irrevocable, and consequently promoting the 4th respondent in the O.A. as a Junior Assistant in the office of the Assistant Director of Mines & Geology, Kurnool. By order dated 07.08.2018, the Tribunal opined that relinquishment of his earlier promotion by the applicant would not extend to or operate in relation to the future vacancies and therefore, he could not be deprived of his claim to be promoted to the post of Junior Assistant forever simply because he had relinquished such a promotion earlier. However, taking note of the fact that the applicant belonged to the feeder category of driver while the 4th respondent in the O.A. belonged to the feeder category of Office Subordinate, the Tribunal opined that it was for the Assistant Director of Mines & Geology, Andhra Pradesh, Kurnool, to ascertain as per Rules as to which of them would be entitled for promotion to the post of Junior Assistant and to take action accordingly. Aggrieved by these directions, the 4th respondent in the O.A. preferred this writ petition.

By order dated 06.09.2018, this Court directed the authorities to maintain *status quo* obtaining as on that date in so far as the writ petitioner/4th respondent was concerned. I.A.No.2 of 2018 was filed by the 4th respondent/applicant to vacate the said order.

Having heard Sri S.Gangadhar Reddy, learned counsel for the petitioner/4th respondent, Sri V.Maheswar Reddy, learned counsel for the 4th respondent/applicant, and the learned Government Pleader for Services, State of Andhra Pradesh, for the authorities, we are in agreement with the finding of the Tribunal that the relinquishment of a promotion on one occasion would not entail relinquishment of promotional opportunities for all times to come and therefore, the direction of the Tribunal to consider the candidature of the 4th respondent/applicant cannot be held to be illegal. It may however be noted that The Andhra Pradesh Ministerial Service Rules, 1998, and more particularly Note (17) under Rule 3 thereof was amended by G.O.Ms.No.32, General Administration (Ser.B) Department, dated 03.02.2014. In terms of the said amendment, the authorities would have to make promotion to the post that is now available in the category of Junior Assistant.

The Writ Petition is accordingly disposed of modifying the order of the Tribunal to the extent of directing the authorities to consider the candidature of the petitioner/4th respondent and the 4th respondent/applicant for promotion to the said post in terms of the amendment to Note (17) under Rule 3 of The Andhra Pradesh Ministerial Service Rules, 1998. This exercise shall be completed

expeditiously and, in any event, not later than three weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

4th December, 2018
sur

