

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

WRIT APPEAL Nos.1295 and 1514 of 2018

COMMON JUDGMENT: (per SK,J)

These two writ appeals arise out of the common order dated 28.08.2018 passed by a learned Judge of this Court in W.P.Nos.29311 and 27896 of 2018. W.A.No.1295 of 2018 was preferred by the petitioners in W.P.No.29311 of 2018 while W.A.No.1514 of 2018 was preferred by the petitioners in W.P.No.27896 of 2018.

The issue before the learned Judge was with regard to promotions to the posts of Assistant Pay and Accounts Officer. Three feeder categories were available to effect such promotions – Divisional Accounts Officer Grade-I, Office Superintendents and Section Officers from Secretariat Service. The litigation pertained to the vacancies which arose in April, 2018 in the promotional posts. It appears that the learned Assistant Government Pleader representing the authorities informed the learned Judge that no decision had been taken with regard to constitution of the Departmental Promotion Committee for filling up these vacancies and that an appropriate decision would be taken in consultation with the competent authority in due course of time. It was in these circumstances that the learned Judge passed the following order on 28.08.2018:

'However, as the panel year is coming to an end by 31.08.2018 and the matter requires consideration after the stand of the Government is expressed with reference to quota to be earmarked to these feeder categories for promotion as Assistant Pay & Accounts Officer, and if no DPC is held before 31.08.2018 grave prejudice would be caused, the following directions are issued:

The respondent-State is directed to constitute the DPC and hold selections for promotion as per the Rules governing the post of Assistant Pay and Accounts officer, by considering the eligible

officers from these feeder cadres duly taking note of the Adhoc Rules notified vide G.O.Ms.No.85 dated 18.05.2018 and Rule 6 of the Telangana State and Subordinate Service Rules and prepare panel of officers for promotion. However, until further orders, promotions shall not be given effect to.

Post on 11.09.2018 for filing counter by the implead respondents as well as the Government.'

In so far as W.A.No.1514 of 2018 is concerned, the only grievance of the appellants-writ petitioners is that the learned Judge, having directed the authorities to draw up the panel, however directed that the promotions should not be given effect to until further orders.

In so far as W.A.No.1295 of 2018 is concerned, the grievance of the appellants-writ petitioners was that the learned Judge did not direct the authorities to take into account G.O.Rt.No.1073 dated 05.06.2018 which clarified the *ad hoc* rules promulgated in G.O.Ms.No.85 dated 18.05.2018. Taking note of this grievance, an interim order was passed by this Court on 28.09.2018 in I.A.No.1 of 2018 in W.A.No.1295 of 2018, directing the authorities to take into account the clarification issued under G.O.Rt.No.1073 dated 05.06.2018 while applying the rules framed under G.O.Ms.No.85 dated 18.05.2018.

It is however the admitted position that by the date of passing of the aforesaid order on 28.09.2018, the panel had already been drawn up without taking into account the clarification issued under G.O.Rt.No.1073 dated 05.06.2018. This aspect of the matter would therefore have to be taken into consideration by the learned Judge while adjudicating W.P.No.29311 of 2018.

According to Sri Sivaraju Srinivas, learned counsel for the appellants in W.A.No.1514 of 2018, the names of the writ-petitioners in W.P.No.27896 of 2018 figure in the panel which has now been drawn up,

but by virtue of the rider added by the learned Judge, the promotions have not been given effect to.

Learned Government Pleader for Services, State of Telangana, would inform this Court that the authorities have already filed their counter before the learned Judge in the pending writ petitions.

In that view of the matter, as the order passed by the learned Judge was only due to the fact that the stand of the Government was not made known and in the meanwhile, the panel year was to come to an end, we are of the opinion that it would be premature for the appellate Court to venture into the merits of the matter at this stage. It is for the learned Judge to consider the stand of the authorities as put forth in their counter-affidavit and adjudicate the issues raised in the writ petitions on their merits. The learned Judge shall also consider the import of the clarification issued to the *ad hoc* rules framed under G.O.Ms.No.85 dated 18.05.2018, *vide* G.O.Rt.No.1073 dated 05.06.2018, and the consequences thereof. All issues are left upon to be adjudicated by the learned Judge on their own merits and in accordance with law.

The writ appeals are accordingly closed. Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

Date:03.12.2018

GJ