

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

WRIT APPEAL No.1529 OF 2018

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The appellant is the fourth respondent in W.P.No.36768 of 2018 which was disposed of by a learned Judge of this Court, *vide* order dated 12.10.2018, at the stage of admission without putting the appellant on notice. By the said order, the learned Judge observed as under:

“Having regard to the above, without entering into merits of the contentions urged, the Writ Petition is disposed of directing the Principal Secretary, Finance Department-2nd respondent to examine the contentions urged by the petitioners in their appeals dated 04.04.2018, 06.08.2018 and 20.08.2018. However, if the 2nd respondent is *prima facie* in agreement with the contentions urged, he shall also cause notice on the affected parties, afford due opportunity to the petitioners and rival claimants and pass orders by assigning due reasons in support of the decision. The said exercise shall be completed within a period of two (2) months from the date of receipt of copy of this order. In the meantime, if promotions are affected, the same shall abide the result of the order in appeals. The 2nd respondent, if necessary, may undertake review of promotions made in the event the appeals preferred by the petitioners are allowed. It is also made clear that there is no expression of opinion on merits and all the parties can raise all pleas as available in law. Pending miscellaneous petitions shall stand closed.”

Though the aforestated order appears to be innocuous in itself as the learned Judge did not decide any issue but left it open to the Appellate Authority, the Government of Telangana, to consider the pending appeals on their own merits after giving due opportunity of

hearing to the affected parties and pass appropriate orders, we are informed by Sri V.Ravichandran, learned counsel for the appellant, that pursuant to the aforestated order, the Government of Telangana, through its Finance (Admn.I) Department, straight away issued Memo dated 27.10.2018 requiring the Director of Insurance (FAC), Telangana, Hyderabad, to revise the seniority list of Assistant Directors in the Directorate of Insurance by following the due procedure.

The learned Government Pleader for Services-I, State of Telangana, does not dispute the fact that the appeals filed by the unofficial respondents herein, the writ petitioners, are still pending consideration.

That being so, it is not open to the Government to keep the appeals pending and issue a Memo with directions which would have the effect of allowing the said appeals.

Though we are informed that the first respondent-first writ petitioner also made representations dated 06.08.2018 and 20.08.2018, which find mention at reference No.5 in the Memo dated 27.10.2018, we are of the opinion that the Government could not have directed revision of the seniority list based on the said representations when the first respondent-first writ petitioner is also one of the appellants in the pending appeals. She could not have asked for the very same relief by way of representations which she would get if her appeal was allowed. She necessarily had to pursue her appellate remedy and could not have resorted to securing the very same relief by way of an independent representation.

We therefore reiterate the directions of the learned Judge in para 5 of the order under appeal set out supra. Needless to state, the Appellate

Authority shall give due opportunity of hearing to all the affected parties, including the appellant herein, before taking a decision in the matter. It would be open to the appellant to raise jurisdictional issues also as we are informed that such issues would arise in the context of the revision of the seniority list. Reasoned orders shall be passed in the pending appeals by the Appellate Authority and communicated to all the parties. As more than a month has already elapsed out of the time stipulated by the learned Judge, we direct the Appellate Authority to conclude the consideration of the pending appeals and dispose of the same by the end of January, 2019.

The writ appeal is accordingly disposed of with the above directions.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Date: 19.11.2018
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