

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

WRIT PETITION No.45332 of 2018

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

The petitioners are the unsuccessful applicants in O.A.No.2487 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, which was dismissed by order dated 12.11.2018. Their prayer in the said O.A. reads as under:

“Application filed under Section 19 of the Administrative Tribunals Act, 1985 praying this Tribunal to call for the records relating to the impugned final seniority list of Head Nurses in Zone-IV for the panel year 2018-2019 communicated vide Proc.Rc.No.1575/B1/2018 dt.25.10.2018 of the 1st respondent, wherein the names of the applicants shown below to the unofficial respondent No.4 without considering the objections raised by the applicants against revised provisional seniority list dt.22-09-2018 and even not finalizing the provisional seniority list of Head Nurses for the panel year 2017-2018 communicated vide Proc.Dt.06-01-2018 is illegal, arbitrary, unjust, unconstitutional and quash the same and consequently issue directions to prepare the integrated seniority list of Head Nurse by taking into Staff Nurses seniority for filling up post of Nursing Superintendent Gr.II on the ground Head Nurse post is a feeder category available in two different service i.e. A.P. Medical Education, Health and Family Welfare Nursing Subordinate Services and Public Health Nurses in the Andhra Pradesh Health and Family Welfare Subordinate Services and no quota is specified for both the Unit of appointments/services under Rule-3 of G.O.Ms.No.466 dt.16-10-1998.’

As we do not propose to go into the merits of the matter given the fact that the appeal filed by the petitioners is still pending consideration, we see no reason to put the unofficial respondent on notice or afford her an opportunity of hearing.

The Tribunal non-suited the petitioners on the sole ground that they had not availed the remedy of appeal and therefore, Section 20 of

the Administrative Tribunals Act, 1985, would bar them from approaching it for relief.

Sri M.Krishna Rao, learned counsel for the petitioners, would inform this Court that the petitioners thereafter preferred an appeal before the Principal Secretary to the Government, Health, Medical and Family Welfare Department, State of Andhra Pradesh, on 26.11.2018 and the said appeal was taken on record.

In the light of this development, we are of the opinion that the petitioners cannot seek adjudication by this Court of the issues arising for consideration in the pending appeal.

The writ petition is accordingly disposed of directing the appellate authority to consider the petitioners' appeal on its own merits and keeping in mind the law laid down by the Supreme Court in *M.NAGARAJ V/ s. UNION OF INDIA*¹ and *JARNAIL SINGH V/ s. LACHHMI NARAIN GUPTA*² and pass appropriate reasoned orders thereon. This exercise shall be completed expeditiously and in any event, not later than eight weeks from the date of receipt of a copy of this order.

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: 13.12.2018
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¹ (2006) 8 SCC 212

² 2018 SCC OnLine SC 1641