

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.1303 OF 2020

Date:06.02.2020

Between:

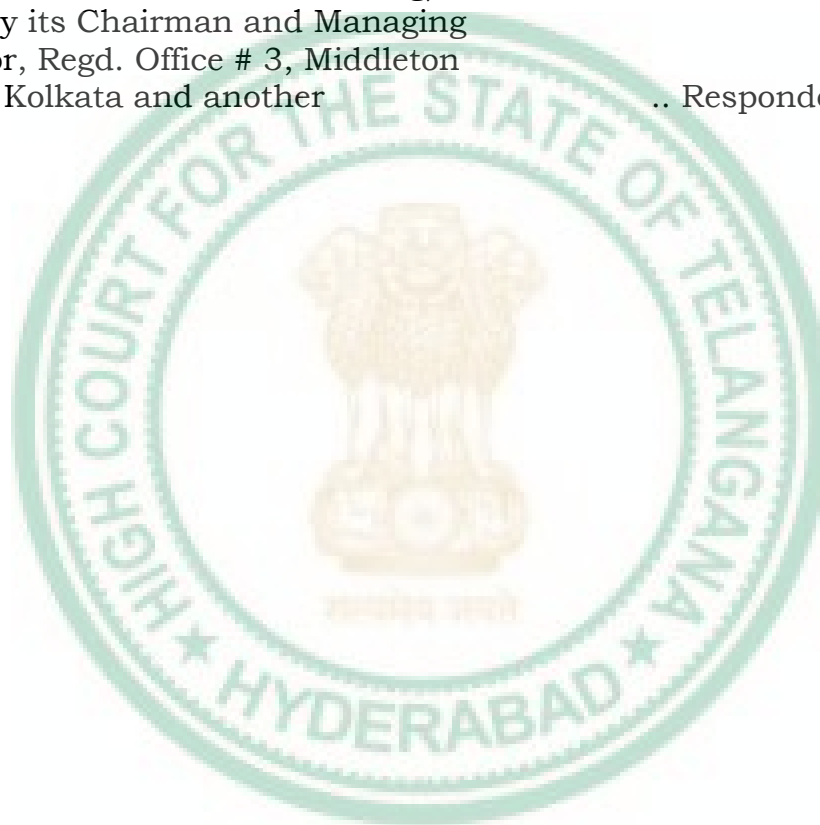
Sri Bhukya Ramulu, S/o. Teekya,
Aged about 52 years, R/o.23-81/E,
Matha Laxmi Colony, Gaddiannaram,
Hyderabad

.. Petitioner

And

M/s. National Insurance Company Limited,
(Government of India Undertaking),
Rep., by its Chairman and Managing
Director, Regd. Office # 3, Middleton
Street, Kolkata and another

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.1303 OF 2020****ORDER:**

Heard learned counsel for the petitioner and Sri T. Koteswara Rao, learned standing counsel for the National Insurance Company Limited appearing for the respondents.

2. In this writ petition, petitioner challenges the office order dated 13.01.2020 whereby he was transferred from the present place of posting i.e., Warangal Division Office to Karimnagar Division Office by demoting/lowering his rank from Divisional Manager to Deputy Manager. Petitioner challenges this order of transfer primarily on the ground that the present transfer amounts to reverting him and the same is illegal. Petitioner was earlier working in Kurnool. He was transferred to Warangal and posted as In-charge of the Division in Warangal. While working in Warangal, petitioner was transferred to Hubli in the State of Karnataka by proceedings dated 07.08.2019. Challenging the said transfer order, petitioner filed W.P.No.17321 of 2019, wherein he pleaded that his health is not good and he requires treatment and therefore he may be considered for transfer to Hyderabad. In I.A.No.1 of 2019 in the said writ petition, by order dated 21.08.2019, this Court directed the petitioner to submit representation within one week from that date bringing to the notice of the respondents the difficulties and upon such representation being received, the respondents were directed to pass appropriate orders in another four weeks. The Court also ordered suspension of the order of transfer till such consideration.

3. It appears, petitioner also went before the National Commission for Scheduled Castes and Scheduled Tribes and the Commission also directed for consideration of the petitioner's claim for appropriate posting on due consideration. Subsequently, the National Commission issued Office Order on 13.01.2020 modifying the earlier transfer order and transferring the petitioner as Deputy Manager to Karimnagar Division Office. Consequent to the orders passed on 13.01.2020, W.P.No.17321 of 2019 was disposed of as becoming infructuous.

4. Learned counsel for the petitioner placed reliance on the judgment of this Court in **R. SUDHAKAR V. M/s. INDIAN IMMUNOLOGICALS, HYDERABAD**¹ to contend that the present order of transfer would amount to reversion. According to learned counsel, petitioner is presently holding the post of Divisional Manager in Warangal Division Office, whereas he is now posted as Deputy Manager in Karimnagar Division Office and therefore the same is *ex facie* illegal. Petitioner is willing to work in Warangal Division Office as Divisional Manager or in any cadre, but he cannot be posted as Deputy Manager. Learned counsel also submits that the respondents called for options from the Deputy Managers and others for empanelment. On consideration of the options, petitioner was empanelled and posted as Divisional Manager. He would therefore submit that once petitioner opted for Divisional Manager, he cannot be put back to the post of Deputy Manager and the same would amount to reversion. The nature of duties and responsibilities assigned to the post of Deputy Manager

¹ 1997 (5) ALD 175

are inferior to the post of Divisional Manager and therefore it would amount to reversion.

5. Per contra, according to learned standing counsel representing the respondent - Company, petitioner is a Scale-III Officer and continues to be in Scale-III, whether he is working as Divisional Manager or Deputy Manager. A Scale-III Officer can be posted as Deputy Manager or as Divisional Manager, subject to availability of the officers and requirement of a Division. Since there was already an Officer working as Divisional Manager in Karimnagar belonging to Scale-IV cadre, he was posted as Deputy Manager. As petitioner is a Scale-III Officer and is not posted in a lower Scale/grade, the order of transfer does not amount to reversion or posting to a lower post. Petitioner continued to be a Scale-III Officer and therefore, the contention urged is not valid in law.

6. The chart dealing with re-designation of Class-I Officers, their ranks and posts is enclosed at page No.15 of the additional material papers filed by the petitioner. The same is also replicated in the counter affidavit. From this chart, it is seen that earlier Scale-III post was called as Assistant Manager and Scale-IV post was called as Deputy Manager. Now there is a change in classification. Scale-III is now called as Deputy Manager and Scale-IV is called as Manager. According to this change, a Scale-III Officer can be posted as Deputy Manager in the Head Office and as Divisional Manager in the Division Office. A Scale-IV Officer can be posted in the Head Office or Regional Office and when is posted in a Division, he is called as Senior Divisional Manager. The Head of

the Division Office may be called as Divisional Manager or Deputy Manager. Post of Divisional Manager can be filled by Scale-IV Officer or Scale-III Officer. It is not in dispute that the petitioner is working in Scale-III cadre and continues in that scale. The present Divisional Manager in Karimnager is Scale-IV Officer, which is higher to that of the petitioner cadre.

7. Learned counsel for the petitioner placed heavy reliance on the options called and empanelment of the petitioner for being posted as head of a division. It is seen from the Circular Instructions filed at page Nos.21 and 22 of the additional material papers filed by the petitioner that the empanelment is called for the post of Manager In-charge, which is confined to Scale-II and Scale-III and for Divisional In-charge, which is confined to Scale-III and Scale-IV. In other words, empanelment can be from the Officers working in Scale-III (Deputy Manager) and Scale-IV (Manager). The Circular Instructions prescribe the selection procedure for empanelment. However, this empanelment is not mandatory, but it is at the option of the concerned officer. On exercising option for such empanelment only, the officer would be empanelled subject to assessment of suitability of the officer. According to clause 4, under the head of 'Selection Procedure' of the Circular Instructions, the heading used is 'Divisional In-charge', but the short forms used are 'BM/DM', which is actually leading to lot of confusion. The expanded term of BM is Branch Manager and DM is Divisional Manager. It is not disputed by learned counsel for the petitioner that there is no post of Divisional Manager. Scale-III is Deputy Manager and Scale-IV is Manager. In clause 4 under the heading 'Selection Procedure', it is seen that posting will be

according to the needs of the company and depending upon the availability of vacancy in Branch/Division. According to clause 7 thereof, a Scale-III Officer posted as Senior Branch Manager can be considered for posting as a Divisional Manager in future without undergoing further screening. According to clause 9, an Assistant Manager (Scale-II) empanelled in the Branch Manager's panel can be considered for being posted as a Divisional Manager, if promoted to Scale-III (Deputy Manager) during the empanelled period.

8. From a cumulative reading of various clauses in the Circular Instructions, it is apparent that assignment of duties as Divisional In-charge are optional and can be assigned to Scale-III or Scale-IV Officers depending upon the requirement and need of the company. Thus, it is not a case of promotion granted to the existing Scale-III Officer with higher emoluments, duties and responsibilities which are far superior, but posting is subject to the administrative requirements of the employer and subject to availability of the Divisional In-charges with no change in emoluments.

9. To support the stand of the respondents, learned standing counsel referred to the Office Order dated 08.10.2018. It deals with the transfer of the Officer by name K.R.C. Prasad, who was working as Divisional Manager in Warangal Division Office and was transferred as Deputy Manager on his request to Warangal Division Office. According to learned counsel for the respondent company, petitioner was posted to Warangal in the vacancy so created to work as Divisional Manager in Warangal Division.

In other words, petitioner was given In-charge assignments of the Division to run the affairs of the company in that Division vacated by another Scale-III Officer. It is not the case of the petitioner that he is posted under a person, who is junior to him or a person who is lower in rank than him. Thus, it cannot be said that the present order would be amounting to violating the service conditions of the petitioner or would be amounting to reverting the petitioner to a lower rank/scale than the scale in which he is working. In the facts of this case, the decision of this Court in **R. SUDHAKAR** (supra) does not come to the aid of the petitioner. Therefore, I do not see any merit in the writ petition and the same is liable to be dismissed.

10. The Writ Petition is accordingly dismissed. However, petitioner is granted one week time to join in the place of posting. There is no order as to costs. Pending miscellaneous petitions shall stand closed.

Date:06.02.2020

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P. NAVEEN RAO, J