

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T.AMARNATH GOUD

Writ Petition (TR).No.5482 of 2017

and

I.A.NO.1 of 2020 in/and
Writ Petition No.24820 of 2017

COMMON ORDER: *(Per Hon'ble Sri Justice M.S. Ramachandra Rao)*

The subject matter of both these Writ Petitions is interconnected and the same petitioner has filed both cases. Therefore, they are being disposed of by this Common Order.

2. The petitioner was working as Joint Director – Class ‘A’ in the Animal Husbandry Department of the composite State of Andhra Pradesh. The post of Joint Director – Class ‘A’ is a State-Cadre post. He belongs to a Scheduled Tribe community.

3. His wife Smt. B. Shantabai was also a State Government employee and was working as Assistant Registrar.

4. The composite State of Andhra Pradesh was bifurcated into the new State of Telangana and the residuary State of Andhra Pradesh w.e.f.02.06.2014 by the A.P. Re-organization Act, 2014 (**for short, ‘the Act’**).

5. The petitioner gave an option on 07.03.2015 for allocation to the State of Telangana.

6. But, he was tentatively allocated to the State of Andhra Pradesh vide proceedings GAD (SR) Department Notification No.21105 – B / SR1 / 2014 – 4 dt.12.06.2015.

7. Aggrieved thereby, petitioner gave a representation dt.26.06.2015 stating that though he was born in Kadapa District of Andhra Pradesh, he had studied Classes VIII, IX and X at Khammam in the State of Telangana and subsequent education including Post Graduation was also in the Telangana State and so he is to be considered as a local candidate of State of Telangana; he was initially appointed as Assistant Director in Chevella, Ranga Reddy District in Telangana State through an examination conducted by the A.P. Public Service Commission in 1993 and he had only worked in Telangana State; his wife was working in the Office of the Commissioner of Co-operation and Registrar of Co-operative Societies, Telangana State, Hyderabad as Assistant Registrar; that she was initially appointed as Junior Assistant in Krishna District of the present residuary State of Andhra Pradesh against 'non-local' category as per the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 issued by the President of India under Clauses (1) and (2) of Article 371-D of the Constitution of India notified vide G.O.Ms.No.674, General Administration (SPF-A) Department dt.29.10.1975 (also called 'Presidential Order of 1975'); during bifurcation process of the employees between the two States, she was allotted to Telangana State by way of an 'Order to

Serve' proceeding dt.31.05.2014 of the Director, Ministry of Public Grievances and Pensions, Government of India; she was re-allocated to the residuary State of Andhra Pradesh subsequently; that she gave objection to the same stating that she was born, brought up and educated in Telangana State and she had rendered service for 16 years in the area covered by the said State and her reallocation to Andhra Pradesh was absurd, illegal; that the same was pending for consideration; that unless his wife's request is considered or finalized his allotment ought not to be considered.

He also stated that he had two children born and brought up in Hyderabad, aged 15 years and 12 years respectively, who were in Classes 10 and 8 respectively, and if he is allotted to the State of A.P., their studies would be adversely affected.

He also stated that as per the Seniority List in the Cadre of Joint Director, his position was at Serial No.4 and there are existing vacancies in the Telangana State since three Joint Directors from Telangana State were allotted to Andhra Pradesh.

8. At the time of these events, petitioner was working as Project Director, ATMA, Ranga Reddy District, Hyderabad in the Agriculture Department of the State of Telangana on deputation.

Proceedings of the Government of India on 14.01.2016 allocating the petitioner to the State of Andhra Pradesh

9. But, notwithstanding the same, the petitioner was finally allocated by the Ministry of Personnel, PG & Pensions, Department of

Personnel and Training, Government of India vide proceedings F.No.29/01/2016 – SR(S) dt.14.01.2016 (Order No.5(2)/2016) to the residuary State of Andhra Pradesh.

O.A.No.209 of 2016 and the Interim Order therein dt.29.01.2016

10. This was assailed by the petitioner by filing O.A.No.209 of 2016 before the Administrative Tribunal for both the State of Andhra Pradesh and the State of Telangana at Hyderabad.

11. Petitioner also filed an Interlocutory Application in the O.A. challenging the proceedings dt.14.01.2016 of the Ministry of Personnel, PG & Pensions, Department of Personnel and Training, Government of India.

12. The Administrative Tribunal admitted the O.A. and issued notice to the respondents on 29.01.2016 and directed that the final allocation of the petitioner to the State of Andhra Pradesh shall be subject to the final result in the O.A.

Order dt.16.02.2016 in W.P.No.4391 of 2016

13. Challenging the said interim order of the Tribunal, petitioner filed Writ Petition No.4391 of 2016 in the common High Court for the State of Telangana and the State of Andhra Pradesh.

14. The said Writ Petition was allowed partly on 16.02.2016 setting aside the interim order of the Tribunal and it remanded the case to the Tribunal for fresh consideration and passing of a speaking order after hearing both sides within two weeks from the date of

receipt of its order. The Bench directed that the petitioner shall not be relieved from his present place of work at Hyderabad till the disposal of the interlocutory application by the Tribunal.

15. In view of the said order, the petitioner continued to work as Project Director, ATMA, Ranga Reddy District in the Agriculture Department on deputation.

16. It is alleged by the petitioner that the Administrative Tribunal did not pass any orders in the interlocutory application of the petitioner as directed by the High Court in W.P.No.4391 of 2016; and yet, after the final allocation order was passed on 14.01.2016, petitioner was relieved from ATMA, Ranga Reddy District, in the Agriculture Department vide G.O.Rt.No.11 dt.04.02.2016 of the Government of Telangana, Animal Husbandry Department and consequential orders were issued vide Memo No.8356 / AGRI.I (1) / 2016 dt.16.01.2017 repatriating the petitioner to his parent Department of Animal Husbandry.

17. Petitioner states that he was repatriated from the post of Project Director, ATMA, Ranga Reddy District on 07.03.2017 and he made a representation on 08.03.2017 to the Special Chief Secretary, Animal Husbandry Department, Government of Telangana for giving him posting.

W.P.No.24820 of 2017

18. But, no posting orders were issued to the petitioner for over 4 ½ months and no salary was also paid to him, forcing the petitioner to file W.P.No.24820 of 2017 challenging the Government Memo No.8356 / AGRI.I (1) / 2016 dt.16.01.2017.

Contentions of petitioner

19. It is the contention of petitioner that the order No.5 (2) of 2016 dt.14.01.2016 permanently allocating the petitioner to the State of Andhra Pradesh itself states in para no.2 thereof that it would not come into effect in respect of any person who has obtained 'stay order' from a Court of Law against his allocation to any of the successor States till the time such stay order is vacated; and since the order passed by the Division Bench on 16.02.2016 in Writ Petition No.4391 of 2016 directing the petitioner not to be disturbed from his current posting is in the nature of such 'stay order', the petitioner cannot be asked to report to the State of Andhra Pradesh.

Wife of petitioner posted from June, 2017 in the State of Telangana by way of mutual transfer

20. It is his further contention that his wife Smt. B. Shantabai had made a representation on 19.10.2016 that she is working as Assistant Registrar in the Head Office i.e., Office of the Special Commissioner for Cooperation and Registrar of Co-operative Societies, Guntur in the State of Andhra Pradesh, that she was permanently allocated to Zone-II in the State of Andhra Pradesh, that she was willing to forego her

seniority in Zone-II and willing to take last rank below the last regular Assistant Registrar working in Zone – VI (in the State of Telangana); that Smt. B. Geethavani, another Assistant Registrar working in the Office of District Co-operative Audit Officer, Hyderabad Zone (Zone-VI in Telangana State) was willing to get transferred to Zone-II in the State of Andhra Pradesh on mutual basis on nativity and community grounds; and she requested to consider transfer on mutual basis with the said Smt. B. Geethavani in view of the health condition of Smt.Geethavani's husband and humanitarian grounds from the State of Andhra Pradesh to the State of Telangana and vice-versa. Petitioner contends that both Governments agreed and G.O.Ms.No.51 Agriculture and Co-operation (COOP.I) Department dt.12.06.2017 was issued by the State of Andhra Pradesh according permission for petitioner's wife B. Shantabai's inter-State transfer on reciprocal basis to the State of Telangana and Smt. B. Geethavani to the State of Andhra Pradesh; that similar G.O.Ms.No.22 was issued on 18.05.2017 by the State of Telangana for inter-State transfer of Smt. B. Geethavani; and ultimately from 14.06.2017, the petitioner's wife Smt. B. Shantabai was posted as Assistant Registrar in the Office of Commissioner for Co-operation and Registrar of Co-operative Societies, Telangana State at Hyderabad.

21. Petitioner contends that as per Section 80 of the State Reorganization Act, 2014, the Central Government issued final allocation guidelines which were notified vide G.O.Ms.No.312 dt.

30.10.2014 for allocation of the employees between the two States; that in the said guidelines, at para no.12 Clause (vii), it was stated that *no allocable posts should be omitted while distributing the cadre strength between the two States*; that para no.14 thereof provided for allocation of personnel, and directed that the Central Government shall, by general or special order, finally allot every person for service, after consideration of option received from the employees; that para No.18 provided Principles guiding allocation; and that Clause (f) of para no.18 of final allocation guidelines provided that

“The allocation shall be done in order of seniority as available on June 01, 2014. Those who have opted, who are ‘local candidates’ relatable to the State to which they have opted shall, in order of their seniority, be considered for allocation first. If allocable posts in that category remain, then. Others who have opted to the State may be allocated in order of seniority. If still posts remain allocation will be made in reverse order of seniority”.

22. It is contended that the total sanctioned strength of posts in the cadre of Joint Director, Class – A in Animal Husbandry Department is 23, and 13 posts were allotted to Andhra Pradesh State and 10 posts were allotted to Telangana State.

23. It is contended that *the respondents did not take into account the petitioner’s option and his seniority position No.4 in the seniority list of Joint Director and violated the guidelines issued vide G.O.Ms.No.312 dt.30.10.2014.*

24. Reliance is also placed on Clause (l) of para no.18 of the Guidelines issued for final allocation in the above G.O. which states :

“Spouses in State cadre in Government or in State Government institutions, local bodies and those who are deemed allocated as per the Act, shall as far as practicable, be allotted to the same State, after considering options made by them and their local candidature. Spouses who are local candidates of a State shall be allocated to that State. Spouses who belong to different States may be allocated after considering their options.”

25. Petitioner contends that when his spouse is born and educated in the State of Telangana, she has to be treated as a ‘local candidate’ of the State of Telangana and she is now allocated to the State of Telangana; so, by applying the above clause, he ought to be allocated to the State of Telangana as well; and the impugned final allocation order passed by the Ministry of Personnel, PG & Pensions, Department of Personnel and Training, Government of India vide proceedings F.No.29/01/2016 – SR(S) dt.14.01.2016 (Order No.5(2)/2016) permanently allocating petitioner to the residuary State of Andhra Pradesh, has to be set aside.

26. Petitioner contends that the respondents have treated him as a local candidate of the State of Andhra Pradesh on the ground that he hails from Cuddapah District in the State of Andhra Pradesh overlooking the fact that from Classes VIII to X, he had studied in Khammam District which falls in the new State of Telangana; and that as per the A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 which should be the basis to determine his local candidature as per para 18(n), school

records from Class VIII have to be considered and if so, he would become local candidate of the State of Telangana only.

The Re-numbering of O.A.No.209 of 2016 as W.P. (TR) No.5842 of 2017 after abolition of the Administrative Tribunal by the State of Telangana

27. We may point out that the Administrative Tribunal for the State of Telangana was abolished by the Government of Telangana and the case O.A.No.209 of 2016 filed by the petitioner was transferred to the common High Court for the State of Telangana and the State of Andhra Pradesh and re-numbered as W.P. (TR) No.5482 of 2017. Both were directed to be clubbed together.

The stand of the State of Telangana

28. The State of Telangana and its Director of Animal Husbandry who were impleaded as respondent nos.4 and 5 in O.A.No.209 of 2016 / W.P. (TR) No.5482 of 2017 filed counter-affidavit / V.M.A.No.205 of 2016 in O.A.No.209 of 2016 (re-numbered as WVMP(TR).No.703 of 2017) to vacate the order dt.29.01.2016 granted by it and dismiss the O.A. / W.P.

29. In the said counter-affidavit, it is stated that petitioner's wife had been appointed in Krishna District and promoted as Assistant Registrar in Zone-II (Zonal Cadre Post), that her seniority was also declared in the said Zone which falls in the State of Andhra Pradesh and as per Section 77(2) of the A.P. Reorganization Act, 2014 she has to work in the said State only.

30. Therefore, it is stated that petitioner cannot claim that his wife is working in the State of Telangana and claim allotment to the Telangana State on 'spouse' grounds.

31. It is stated that petitioner belongs to the State of Andhra Pradesh as per his local candidature and so he has been allocated to the home State of Andhra Pradesh based on availability of posts in the said State.

32. It is however stated that petitioner's representation regarding his provisional allocation to the State of Andhra Pradesh and the local status of his wife were referred to the Commissioner of Co-operatives and Registrar of Co-operative Societies, Hyderabad and the latter vide Lr.Roc.No.778 / MINC / 2014 dt.22.04.2015 informed that as on that date petitioner's wife is working as Assistant Registrar in the Office of Commissioner & Registrar of Cooperative Societies, Andhra Pradesh at Hyderabad.

33. It is admitted that petitioner while working as Joint Director (Animal Husbandry) at District Project Office, Rajiv Vidya Mission had submitted option form to the Animal Husbandry Department exercising his option for the State of Telangana as per preferential claim in terms of para 18(i) of the option form and also enclosed details of his spouse, but his request cannot be accepted, and the decision was taken in accordance with the guidelines for final allocation.

34. In W.P.No.24820 of 2017, the State of Telangana and the Director of Animal Husbandry Department filed a counter stating that as per para no.18(i) of G.O.Ms.No.312 dt.30.10.2014, *‘employees who are members of the Scheduled Castes or the Scheduled Tribes shall be considered for allocation on the basis of their option if they are local candidates’*; that petitioner is a local candidate of Cuddapah District of Andhra Pradesh State; and so, petitioner cannot contend that his allocation to the State of A.P. is incorrect.

35. It is admitted that petitioner’s wife had joined in the State of Telangana in 2017, but it is contended that petitioner falsely pleaded that his wife was working in Telangana State at the time of filing of O.A.No.209 of 2016 and the said plea is not correct.

36. It is stated that though petitioner obtained order on 16.02.2016 in W.P.No.4391 of 2016 that he should not be relieved from his present place of work in the post of Project Director, ATMA, Ranga Reddy District in the Agriculture Department of the Telangana State, he was relieved because at the time of re-organization of Districts in the State of Telangana, the ATMA Scheme was merged with Farmer Training Centers, etc. pursuant to a policy decision.

37. It is stated that petitioner was then repatriated on 07.03.2017 and asked to report to the Animal Husbandry Department.

38. It is contended that once the Government of India issued orders on 14.01.2016 allocating petitioner to the State of Andhra Pradesh,

petitioner cannot seek posting orders in Telangana State and he must approach the State of Andhra Pradesh for his posting.

The stand of the State Reorganization Department rep. by its Secretary, General Administration (SR) Department of the State of Andhra Pradesh:

39. This party is arrayed as 1st respondent in O.A.No.209 of 2016 / W.P. (TR) No.5482 of 2017. Its stand is identical to the stand of the State of Andhra Pradesh.

The stand of the State of Andhra Pradesh

40. No counter-affidavit was filed in both Writ Petitions by the State of Andhra Pradesh.

The stand of the Union of India

41. The Union of India which is 6th respondent in WP(TR).No.5482 of 2017 admitted that 14 posts of Joint Director were allotted to the State of Andhra Pradesh and 9 posts were allotted to the State of Telangana; that number of allocable employees in the cadre of Joint Director were 27, more than the sanctioned cadre-strength; excess allocable persons were allocated between the successor States on population ratio as per guidelines; and the petitioner though local to the State of Andhra Pradesh had opted for Telangana and so he was allotted to the State of Andhra Pradesh *as per para no.18(f) of the guidelines due to non-availability of vacancy within the filled posts in Telangana*. It is stated that his request on 'spouse' grounds could not be also accepted as his spouse belongs to Zonal cadre of Andhra Pradesh.

42. Alternatively, reliance is placed on para 18(i) of the Guidelines dealing with Scheduled Tribe candidates mentioned above.

43. It stated that the contention of the petitioner that the final allocation order was issued without considering his claim is not valid as it is not feasible to mention names of each and every person, who has represented against tentative allocation, in the final allocation order. The guidelines for final allocation prescribes that the Advisory Committee will consider representations of the employees after taking the views of the Administrative Department concerned at a meeting attended by the representatives of the two States and the Central Governments, before forwarding the same to the Central Government for taking final view in the matter. This procedure was duly followed by the Advisory Committee and his representation along with others was considered in the Sub-Committee meeting held on 16.11.2015.

Consideration by the Court

44. The question to be considered is:

‘whether the Union of India in the permanent allocation order No.5(2)/2016 dt.14.01.2016 had correctly allocated the petitioner to the State of Andhra Pradesh by acting in accordance with the guidelines framed for allocation vide G.O.Ms.No.312 General Administration (SR) Department dt.30.10.2014?’

45. Vide G.O.Ms.No.312 General Administration (SR) Department dt.30.10.2014, the Government of Andhra Pradesh had notified the

guidelines for final allocation of State Cadre employees under the A.P.Reorganization Act, 2014 framed by the Government of India.

46. Para 18 of the said G.O. mentioned the guidelines/principles which would be followed for the purpose of allocation of employees.

47. Clause (e) of Para 18 stated that '*State Service employees who hold allocable posts shall be allocated after seeking option from the employees indicating their preference to serve in either of the successor States after taking their option into consideration.*'

48. Admittedly, petitioner gave his option for allocating him to the State of Telangana on 07.03.2015.

49. Admittedly, of the total 23 posts in the Animal Husbandry Department of the composite State of Andhra Pradesh, 9 posts were allocated to the State of Telangana and 14 posts were allocated to the residuary State of Andhra Pradesh.

50. Clause 18(c) of the guidelines states that *allocable employees shall be considered for allotment between the successor State on the basis of seniority list as available on 01-06-2014.*

51. Sub-clause (f) of Clause 18 states:

"The allocation shall be done in order of seniority as available on June 01, 2014. Those who have opted, who are 'local candidates' relatable to the State to which they have opted shall, in order of their seniority, be considered for allocation first. If allocable posts in that category remain, then others who have opted to the State may be allocated in order or seniority. If still posts remain allocation will be made in reverse order of seniority".

52. Thus the guidelines identify ‘seniority’ as one of the essential criteria on the basis of which officers would be allocated to one or the other of the newly formed States. (See **Naganna Vs. State of A.P.**¹).

53. The petitioner’s position in the seniority list of Joint Directors (clause-A) in the composite State of Andhra Pradesh as on 02.06.2014 was Sl.No.4.

54. The three people who were seniors to him by name Tanikonda Damodar Naidu, Koneti Venkata Ramana, M.Srinivasa Rao, who were local candidates of Andhra Pradesh, opted for the State of Andhra Pradesh and were allocated temporarily to the State of Andhra Pradesh as can be seen from Notification dt.12.06.2015 issued by the General Administration (SR) Department of the Government of Andhra Pradesh and also as per annexure-I to the final allocation order No.5(2)/2016 dt.14.1.2016.

55. Therefore the petitioner is the senior most among persons in the Cadre of Joint Director Class-A to opt for the State of Telangana.

56. In view of the fact that Clause (f) of Para 18 which states that *‘those who have opted, who are local candidates relatable to the State to which they have opted, shall, in order of their seniority, be considered for allocation first’*, the three persons senior to the petitioner who are local to the State of A.P. were rightly allocated permanently to the said State.

¹ Order dt.18.08.2020 in W.P.No.4139 of 2020 (DB)

57. Thereafter the latter part of sub-Clause (f) of Clause 18 which says '*if allocable posts in that category remain, then, others who have opted to the State may be allocated in order of seniority*' will come to the aid of the petitioner; and because he is the *senior most* available person in the cadre of joint Director- Class A, his claim for allocation permanently to the State of Telangana, would have primacy over the claims of all his juniors in the said cadre.

58. Instead of following the above procedure prescribed by Clause (f) of Para 18, a strange interpretation was given in para-6 of its counter is adopted by the Union of India saying '*due to non-availability of vacancy within the filled posts in Telangana*', petitioner, though he had opted for the State of Telangana, had to be allocated to the State of Andhra Pradesh.

59. This suggests that the Union of India gave no weight at all to the seniority of the petitioner or to the fact that he was the *senior most* person in the cadre of Joint Director Class-A to opt for the State of Telangana, proceeded to fill up the vacancies allocated to the State of Telangana by persons who are 'natives of Telangana', and then took a stand that there are no vacancies in Telangana State, where the petitioner can be accommodated. This procedure is patently contrary to Para 18(f) of the Guidelines.

60. As regards the claim of the petitioner for allocation on 'spouse ground', admittedly Clause (1) of Para 18 of the Guidelines states as under:

“Spouses in State cadre in Government or in State Government institutions, local bodies and those who are deemed allocated as per the Act, shall as far as practicable, be allotted to the same State, after considering options made by them and their local candidature. Spouses who are local candidates of a State shall be allocated to that State. Spouses who belong to different States may be allocated after considering their options.”

61. In the option form given by the petitioner on 07.03.2015, petitioner had mentioned that his wife was a local candidate of Telangana State and was employed at that time in the category of Cooperative Sub-Registrar, in the Office of the Commissioner for Cooperation and Registrar of Cooperative Societies, Hyderabad in the State of Telangana.

62. In the counter-affidavit filed by the State of Andhra Pradesh, in O.A.No.209 of 2016/V.M.A.No.398 of 2016/W.V.M.P.(TR) No.701 of 2017 in W.P. (TR) No.5482 of 2017 it is stated in para-6 (f) that the Commissioner, Registrar of Cooperative Societies, Hyderabad had stated in Lr.No.778/Misc/2014 dt.22.04.2015 that petitioner’s spouse was working as Assistant Registrar in his Office at Hyderabad. Admittedly, the petitioner’s spouse was initially appointed in ‘non-local’ category in Zone-II falling in the residuary State of Andhra Pradesh, because she was a ‘local candidate’ to the State of Telangana. She ultimately was posted on mutual transfer to the State of Telangana in June, 2017.

63. Therefore the Union of India cannot harp on the petitioner’s wife’s belonging to the Zonal cadre of the State of Andhra Pradesh to

deny petitioner's claiming for posting in the State of Telangana on spouse grounds. The State of Telangana cannot also contend that the petitioner incorrectly stated that his spouse was working in the State of Telangana and that she does not 'belong to the State of Telangana'.

64. This Court had held in **Dr.S.Shoba Rani Vs. the State Reorganization Department, rep. by its Secretary, General Administration (SR) Department, A.P. Secretariat, Hyderabad and others²**, **Ms.D.Sujatha Vs. Union of India and others³** and in **P.Damodar Vs. T.S.Industrial Development Corporation Limited⁴** that the basic principle underlying Para 18(1) of the Guidelines framed for allocation of State cadre employees under the A.P. Reorganization Act, 2014 is *to protect and keep together employed spouses who would otherwise be separated owing to the allocation undertaken pursuant to the bifurcation of the erstwhile State of Andhra Pradesh; and Para 18 (1) states in no uncertain terms that allocations shall, as far as practicable, be made so as to keep the spouses together, and the intent and import of bifurcation of the erstwhile State of Andhra Pradesh is not to break up marriages.*

65. Therefore the petitioner was entitled to be allocated to the State of Telangana even on spouse ground and the Union of India without taking note of the above facts erred in rejecting petitioner's request for allocation to the State of Telangana even on spouse ground.

² 2017(3) ALD 207 (DB)

³ 2019(4) ALD 26 (DB)

⁴ 2020(4) ALD 388 (DB)

66. As regards reliance by the Union of India on Clause (i) of Para 18 of the guidelines i.e. *‘employees who are members of the Scheduled Castes or the Scheduled Tribes shall be considered for allocation on the basis of their option, if they are local candidates’*, in his option form dt.07.03.2015, petitioner did not invoke the said sub-Clause and instead sought preferential allotment under Clause (l) of Para-18. Both the State of Telangana and the Union of India therefore ought not to have considered his claim under Clause (i) of Para 18 of the Guidelines.

67. We are also of the opinion that the said Clause (i) of Para 18 is intended to benefit Scheduled Castes or Schedule Tribe employees, and they can waive it, if it's application is not in their interest and conflicts with their desire to live with their spouse. The Union of India, therefore cannot invoke Clause (i) of Para 18 and insist for posting the petitioner in a State where his spouse is not posted, and separate the two spouses.

68. Also since the petitioner had studied Classes VIII to X in Khammam District in the State of Telangana and he states that upto post graduation, he studies in the State of Telangana, under Para 7 of the Presidential order ,1975, he is a ‘local candidate’ of the State of Telangana only, but ignoring this fact and simply taking note of his place of birth as Cuddapah in Andhra Pradesh State, he was wrongly treated as a ‘loacl candidate’ for the State of Andhra Pradesh. So even

under Clause (i) of para 18, petitioner is eligible to be allotted to the State of Telangana.

69. We therefore hold that the permanent allocation of the petitioner to the State of Andhra Pradesh by the Union of India is arbitrary, unreasonable and contrary to Article 14 of the Constitution of India and the guidelines notified vide G.O.Ms.No.312 dt.30.10.2014. The point is answered accordingly.

70. We also hold that the petitioner is entitled to be allocated to the State of Telangana permanently w.e.f. 14.01.2016.

71. Admittedly this Court on 16.2.2016 in W.P.No.4391 of 2016 directed that the petitioner shall not be relieved from his present place of work at Hyderabad till the disposal of the interlocutory application by the Tribunal.

72. In view of the said order, the petitioner continued to work as Project Director, ATMA, Ranga Reddy District in the Agriculture Department on deputation.

73. But admittedly the Administrative Tribunal did not pass any orders in the interlocutory application of the petitioner as directed by the High Court in W.P.No.4391 of 2016; and yet, after the final allocation order was passed on 14.01.2016, petitioner was relieved from ATMA, Ranga Reddy District, in the Agriculture Department vide G.O.Rt.No.11 dt.04.02.2016 of the Government of Telangana, Animal Husbandry Department and consequential orders were issued

vide Memo No.8356 / AGRI.I (1) / 2016 dt.16.01.2017 repatriating the petitioner to his parent Department of Animal Husbandry.

74. Petitioner states that he was repatriated from the post of Project Director, ATMA, Ranga Reddy District on 07.03.2017 and he made a representation on 08.03.2017 to the Special Chief Secretary, Animal Husbandry Department, Government of Telangana for giving him posting.

75. It is the contention of petitioner that the order No.5 (2) of 2016 dt.14.01.2016 permanently allocating the petitioner to the State of Andhra Pradesh itself states in para no.2 thereof that it would not come into effect in respect of any person who has obtained 'stay order' from a Court of Law against his allocation to any of the successor States till the time such stay order is vacated; and since the order passed by the Division Bench on 16.02.2016 in Writ Petition No.4391 of 2016 directing the petitioner not to be disturbed from his current posting is in the nature of such 'stay order', the petitioner cannot be asked to report to the State of Andhra Pradesh.

76. We find force in the petitioner's contention and agree with it.

77. So the petitioner cannot be denied salary by the State of Telangana from 8.3.2017 till date on the basis of the said relieving order or the permanent allocation order F.No.29/01/2016 – SR(S) dt.14.01.2016 (Order No.5(2)/2016) Ministry of Personnel, PG &

Pensions, Department of Personnel and Training, Government of India.

78. The denial of posting to the petitioner from 08.03.2017 till date and denying salary to the petitioner from that date onwards by the State of Telangana is arbitrary, illegal and violative of Article 14 of the Constitution of India. Since the petitioner, though keen to work, was not allowed to work by the State of Telangana, he is entitled to be paid salary from 08.03.2017 till the date of posting by the State of Telangana with interest @ 7 p.a.

79. Admittedly, implead applications filed by one V.Lakshma Reddy and G.Hanmanth Reddy vide M.A.No.529 of 2016 in O.A.No.209 of 2016 were dismissed on 19.04.2016 itself when the matter was pending before the Administrative Tribunal.

80. As regards, W.P.M.P.No.33396 of 2017, again filed in W.P.No.24820 of 2017, which is renumbered as I.A.No.1 of 2020, by V.Lakshma Reddy and Dr.S.Ramachander, they are at Sl.No.6 and 7 in the Seniority List of Joint Director Class-A, while the petitioner is at Sl.No.4 in the said Seniority List.

Allocation of the petitioner to the State of Telangana permanently would have to be in the first vacancy out of 9 vacancies earmarked for the State of Telangana.

The proposed parties' option to the State of Telangana is not at all affected because they are juniors to him in service and they can be

and have been accommodated in one of the other vacancies allotted to the said State.

They suffer no prejudice by the allocation of the petitioner permanently to the State of Telangana.

Therefore, they cannot be said to be affected parties entitled to be impleaded in W.P.No.24820 of 2017.

Therefore the implead application IA.No.1 of 2020 in W.P.No.24820 of 2017 is dismissed.

Conclusion

81. Accordingly, W.P.(TR) No.5482 of 2017 and W.P.No.24820 of 2017 are allowed; the proceedings F.No.29/01/2016 – SR(S) dt.14.01.2016 (Order No.5(2)/2016) Ministry of Personnel, PG & Pensions, Department of Personnel and Training, Government of India (6th respondent in W.P. (TR) No.5482 of 2017) as regards the petitioner is set aside; and the 6th respondent in W.P. (TR) No.5482 of 2017 is directed to permanently allocate the petitioner to the State of Telangana w.e.f. 14.01.2016; the State of Telangana shall forthwith give posting to the petitioner in the Cadre of Joint Director- Class-A in the Animal Husbandry Department of the said State and also pay within four (04) weeks, salaries to the petitioner as Joint Director-Class-A in the Animal Husbandry Department from 08.03.2017 till the petitioner is given posting by the said State with interest @ 7% p.a.. No costs.

82. Consequently, miscellaneous petitions, pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

Date: 08.12.2020

Ndr/Vsv

