

(2022) 02 TEL CK 0005

In the Telangana High Court

Case No : Writ Petition No. 4059 Of 2015, Contempt Case No. 459 Of 2019

A.Satyavani

APPELLANT

Vs

State Of Telangana,Prl.Scy,M.A.D,Hyd, 4

RESPONDENT

Date of Decision : 04-02-2022

Acts Referred:

Andhra Pradesh Reorganization Act, 2014 — Section 77, 77(2), 79

Citation : (2022) 02 TEL CK 0005

Hon'ble Judges : Satish Chandra Sharma, CJ;N.Tukaramji, J

Bench : Division Bench

Advocate : Srinivasa Rao Madiraju

Final Decision : Dismissed

Judgement

FROM:

The Director of Town and Country Planning

Government of A.P., 640-A.C.Guards

HYDERABAD-4.", "TO:

,The Secretary, A.P.P.S.C., Government of A.P.,

,HYDERABAD." ,,,,,,,

Sl.No.,Name of the District,Zone,"No.of

vacancies

permitted" ,,,,,,

1,"Srikakulam, VizianagaramÂ Â and Visakhapatnam",Zone-I,19,,,,,,

2,"East Godavari, West Godavari and Krishna",Zone-II,28,,,,,,

3,"Guntur, Prakasam and Nellore",Zone-III,22,,,,,,

4,"Chittoor, Ananthapur, Kurnool and Kadapa",Zone-IV,33,,,,,,
 5,"Warangal, Kareemnagar, Khammam and Adilabad",Zone- V,18,,,,,,
 6,"Rangareddy, Nalgonda, Medak, Mahaboobnagar and
 Nizamabad",Zone-VI,06,,,,,,
 ,TOTAL,,126,,,,,,

PC.

No.,"Name of

the Post",Z-1,Z-2,Z-3,Z-4,Z-5,Z-6,Total,"Age as on

01.07.2008

Min. â?

Max.,"Scale of

Pay Rs.

1,"Town

Planning

Building

Oversee",18,32,21,33,19,06,129,18-39,"5470-

12385/-

Department of Personnel and Training, vide order dated 31.05.2014 directed the persons belonging to the organised State-wide cadres in respect of",,,,,,,,,

the Heads of Department posts in the Headquarter, serving in connection with the affairs of the existing State of Andhra Pradesh, which, on the",,,,,,,,,

second day of June, 2014, form part of the affairs of the both the successors States â?" the State of Andhra Pradesh and the State of Telangana was",,,,,,,,,

serving from that day.,,,,,,,,,

6. The petitioner, as she was a member of the Zonal cadre, i.e., Zone-IV, which is Kurnool, is entitled to continue at Kurnool only as Zone-IV is in the",,,,,,,,,

State of Andhra Pradesh. However, the petitioner wanted absorption in GHMC, which is in the State of Telangana, though she is on deputation in",,,,,,,,,

GHMC, State of Telangana. The petitioner, as she wanted absorption in the services of GHMC, came up before the State Administrative Tribunal by",,,,,,,,,

filing O.A.No.589 of 2015 and the State Administrative Tribunal has dismissed the Original Application, by order dated 06.02.2015. Paragraphs 4 to 8",,,,,,,,,

of the order passed by the State Administrative Tribunal are reproduced as under:-,,,,,,,,,

4. Impugned order reads that inter local cadre transfer to State of Telangana or deputation to Greater Hyderabad Municipal Corporation cannot,,,,,,,,

be possible, since the applicant is working in zonal cadre i.e., Zone-IV as Town Planning Building Overseer, Municipal Corporation, Kurnool, in the",,,,,,,,,

State of Andhra Pradesh. It is further stated in the impugned order that the applicant was appointed by the Andhra Pradesh Public Service,,,,,,,,

Commission to Zone-IV and on allotment, she was posted to Municipal Corporation, Kurnool in the composite State of Andhra Pradesh and that after",,,,,,,,,

bifurcation of the composite State of Andhra Pradesh into two States. Zone-IV is existing in the resultant State of Andhra Pradesh, whereas the",,,,,,,,,

applicant requested for her absorption in Greater Hyderabad Municipal Corporation which is in the State of Telangana. It is contended for the,,,,,,,,

applicant that in the Presidential Order, 1975 post of Town Planning Building Overseer was not organized into local cadre and that therefore, the",,,,,,,,,

applicant is deemed to be State level cadre. The applicant did not question allotment of her to Zone-IV at the time of her selection. Having accepted,,,,,,,,

and joined in Municipal Corporation, Kurnool which is in Zone-IV, now it may not be open to the applicant to contend that she holds State level post",,,,,,,,,

and not a zonal level post.,,,,,,,,,

5. The applicant's senior counsel took us through Sections 77 and 79 of the Andhra Pradesh Reorganization Act, 2014. Under second proviso to",,,,,,,,,

Section 77 (2) of the said Act, as far as local, district, zonal and multi-zonal cadres are concerned, the employees shall continue to serve on or after",,,,,,,,,

the appointed day (02-06-2014), in that cadre. As per 3rd proviso to Section 77 (2) of the said Act, employees of local, district, zonal and multi-zonal",,,,,,,,,

cadres which fall entirely in one of the successor States, shall be deemed to be allotted to that successor State. Therefore, the applicant who is allotted",,,,,,,,,

to Zone-IV which is totally in the resultant State of Andhra Pradesh, is deemed to have been allotted to the resultant State of Andhra Pradesh only.",,,,,,,,,

6. Assuming for a moment for the sake of argument that the applicant is in State level cadre, then as per Section 79 of the said Act, the applicant who",,,,,,,,,

is holding the post or office substantively at Kurnool in the resultant or successor State of Andhra Pradesh shall be deemed to have been only,,,,,,,,

appointed to the post or office by the Government of that successor State. This Tribunal is of the opinion that Sections 77 and 79 of the Andhra,,,,,,,,

Pradesh Reorganization Act, 2014 may not come to the rescue of the applicant." ,,,,,,,,,

7. Further, this Tribunal is of the opinion that the question of absorbing or transferring the applicant to Greater Hyderabad Municipal Corporation",,,,,,,,,

located in the State of Telangana may not arise, since the applicant is not even an approved probationer in her substantive post in Municipal",,,,,,,,,

Corporation of Kurnool in the present State of Andhra Pradesh. Therefore, the question of the applicant being continued on deputation in Greater",,,,,,,,,

Hyderabad Municipal Corporation in the State of Telangana pending consideration of her request for absorption in or transfer to Greater Hyderabad,,,,,,,,

Municipal Corporation, is out of place. This Tribunal finds that applicant lacks prima facie case in this Original Application for interference in the",,,,,,,,,

matter.,,,,,,,,,

8. In the result, the Original Application is dismissed.â??",,,,,,,,,

7. The Tribunal has rejected the claim of the petitioner for absorption in GHMC as she was appointed on the post of Town Planning Building Overseer,,,,,,,,

in Zone-IV (Kurnool) and keeping in view Sections 77 and 79 of the Andhra Pradesh Reorganisation Act, 2014, the petitioner is allocated to the",,,,,,,,,

successor State as she belongs to Zonal cadre as Kurnool falls within the State of Andhra Pradesh. It has been held that she has rightly been allocated,,,,,,,,

to the State of Andhra Pradesh. The petitioner being aggrieved by the order passed by the Tribunal has preferred a writ petition and a prayer was,,,,,,,,

made by the petitioner for allocation to the State of Telangana/absorption in the service of GHMC. The petitioner has raised a ground that her husband,,,,,,,,

has met with an accident and therefore, she should be accommodated in the State of Telangana." ,,,,,,,,,

8. In the considered opinion of this Court, the allocation of an employee has to be done keeping in view the statutory provisions governing the field. As" ,,,,,,,,,

the petitioner is holding the Zonal post in Zone-IV, she was appointed in Zone-IV pursuant to her selection, has rightly been allocated keeping in view",,,,,,,,,

Sections 77 and 79 of the Andhra Pradesh Reorganization Act, 2014 and therefore, the Tribunal was justified in dismissing the Original Application." ,,,,,,,,,

The GHMC is altogether a different organization and it is not part of Town

Planning Department of the State Government. Not only this, the petitioner",,,,,,,,,

soon after her joining on 12.09.2011 in Kurnool Municipal Corporation made all attempts for being posted to GHMC and she was posted on deputation,,,,,,,,

with effect from 08.02.2013. The order of deputation has been withdrawn on 26.01.2015 and therefore, in the considered opinion of this Court, by no",,,,,,,,,

stretch of imagination, the question of allocating the petitioner to the State of Telangana or directing absorption of the petitioner to GHMC does not",,,,,,,,,

arise.,,,,,,,,,

9. In the considered opinion of this Court, the petitioner has not pointed out any statutory provision of law which creates a statutory right in favour of",,,,,,,,,

the petitioner for absorption in the services of GHMC. She is an employee of Town and Country Planning Department and she has been allocated to,,,,,,,,

the State of Andhra Pradesh and therefore, this Court does not find any reason to interfere with the order passed by the Tribunal.",,,,,,,,,

10. Another important aspect of the case is that in the present case, this Court passed an interim order in W.P.M.P.No.15416 of 2015 in the present",,,,,,,,,

writ petition, on 26.04.2018, directing the respondents to grant the petitioner the revised pay scale and annual grade increments. Therefore, the",,,,,,,,,

petitioner is certainly entitled to have the benefit of revised pay scale and annual grade increments. She shall be free to claim revised pay scale and,,,,,,,,

annual grade increments from the State of Andhra Pradesh as the petitioner holds a substantive post of Town Planning Building Overseer in Zone-IV.,,,,,,,,,

This Court does not find any reason to interfere with the order passed by the Tribunal and the petitioner is under obligation to report back to the duty,,,,,,,,

as Town Planning Building Overseer, which is a substantive post, forthwith.",,,,,,,,,

11. The petitioner before this Court has been repatriated to its parent department and she cannot claim to be still in service of GHMC, where she was",,,,,,,,,

serving on deputation even if she has worked for several years (See Managing Director, U.P.Rajkiya Nirman Nigam v. P.K.Bhatnagar [(2007) 14",,,,,,,,,

SCC 498]. In the present case, the deputation has come to an end on 07.02.2015 and only on account of interim orders passed by the Tribunal or by",,,,,,,,,

this Court, the petitioner is continuing with GHMC, which is not her parent

department and therefore, as an employee she does not have right to" ,,,,,,,,,

continue on deputation indefinitely and in the present case, the deputation was tenure deputation, the petitioner is not entitled to continue on deputation," ,,,,,,,,,

especially after withdrawal of the deputation vide order dated 26.01.2015.,,,,,,,,,

12. In the light of the aforesaid, W.P.No.4059 of 2015 is dismissed confirming the order, dated 06.02.2015 passed in O.A.No.589 of 2015 by the" ,,,,,,,,,

Administrative Tribunal.,,,,,,,,,

C.C.No.459 of 2019.,,,,,,,,,

13. The present contempt case is filed as the respondents have not complied with the order, dated 26.04.2018 passed in W.P.M.P.No.15416 of 2015" ,,,,,,,,,

in W.P.NO.4059 of 2015, directing the respondents to grant the petitioner the benefit of the revised pay scale and annual grade increments." ,,,,,,,,,

14. The contempt case is disposed of directing the Director of Town and Country Planning, Government of Andhra Pradesh, Mangalagiri, Guntur" ,,,,,,,,,

District, to grant the petitioner the benefit of the revised pay scale and annual grade increments." ,,,,,,,,,

Miscellaneous applications, if any pending in W.P.No.4059 of 2015 and C.C.No.459 of 2019, shall stand dismissed. There shall be no order as to" ,,,,,,,,,

costs.,,,,,,,,,