
(2013) 06 AP CK 0002

In the Andhra Pradesh High Court

Case No : Writ Petition No. 937 of 2013

N. Prabhakar Reddy and Others

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 13-06-2013

Acts Referred:

Citation : (2014) 2 ALT 173

Hon'ble Judges : R. Subhash Reddy, J;A.V. Sesha Sai, J

Bench : Division Bench

Advocate : P.V. Krishnaiah, for the Appellant; J.R. Manohar Rao, Counsel for the Unofficial, for the Respondent

Judgement

R. Subhash Reddy, J.—This writ petition is filed by the applicants in O.A. No. 1577 of 2012 pending before the A.P. Administrative Tribunal, Hyderabad, aggrieved of order dated 04.01.2013 passed in V.M.A. No. 1173 of 2012 and V.M.A. No. 1768 of 2012. The aforesaid O.A. is filed by the petitioners herein seeking to declare the action of the official respondents herein in not preparing the inter se seniority list among direct recruits and promotees in the cadre of Deputy Collectors as per rules and taking further steps to effect promotions to the posts of Special Grade Deputy Collectors as illegal and arbitrary. After filing the O.A., by order dated 29.02.2012, initially, the Tribunal granted directions not to make any promotions to the next higher post of Special Grade Deputy Collector unless final seniority list is prepared in accordance with the rules. But after filing separate counter affidavits by the official and unofficial respondents, the Tribunal, by recording a finding that the petitioners-applicants will not come within the zone of consideration for promotion for 16 existing vacancies of Special Grade Deputy Collectors, vacated the interim order. Aggrieved of the said order, vacating the earlier interim order, this writ petition is filed.

2. Petitioners herein were appointed as Deputy Collectors in the year 2007 in Group I service selections made by the A.P. Public Service Commission pursuant to the notification issued in the year 2003. Mainly it is the case of the petitioners

that promotees to the posts of Special Grade Deputy Collectors, in absence of availability of substantive vacancies in the promotees quota on the date of their promotion, are not entitled to get their seniority reckoned from the date of promotion. It is the grievance of the petitioners that promotions were effected in absence of substantive vacancies; in that view of the matter the unofficial respondents herein are not entitled to get their seniority reckoned from the date of their promotion so as to consider their case for further promotion to the post of Special Grade Deputy Collector.

3. Initially, the Tribunal passed interim order directing not to effect promotions, but after filing counter affidavits and having regard to the stand of the respondents that the petitioners-applicants will not come within the zone of consideration for promotion, passed the impugned order.

4. We have heard Sri P.V. Krishnaiah, learned counsel for the petitioners, learned Government Pleader for Services II and Sri J.R. Manohar Rao, learned counsel for the unofficial respondents.

5. It is submitted by the learned counsel for the petitioners that unless seniority list is prepared among direct recruits and promotees in the cadre of Deputy Collectors, no promotions can be effected for further promotion to the posts of Special Grade Deputy Collectors; as promotions are effected in absence of substantive vacancies, such promotees are not entitled for seniority from the date of their promotion in the category of Deputy Collectors; in that view of the matter steps which are being taken by the official respondents to effect promotions to the posts of Special Grade Deputy Collectors are illegal and arbitrary.

6. On the other hand, it is submitted by the learned Government Pleader for Services II and Sri J.R. Manohar Rao, learned counsel for the unofficial respondents herein that the Chief Commissioner of Land Administration, A.P., Hyderabad, vide letter No. DI/782/2009 dated 13.06.2009, furnished the tentative seniority list of Special Grade Deputy Collectors and Ordinary Grade Deputy Collectors for preparation of seniority lists, but the same was not found to be in accordance with the rules and therefore returned with a request to furnish proposals afresh. The issue of seniority of Deputy Collectors and Special Grade Deputy Collectors has been a long pending issue and it will take some more time for finalization. It is further submitted that 34 per cent of posts of Special Grade Deputy Collectors are vacant as against the total cadre strength of 170 posts. Special Grade Deputy Collectors are being posted as Additional Joint Collectors, District Revenue Officers, Special Collectors (Land Acquisition) in I & CAD Dept, Project Directors in DRDA/DWMA, Project Officers in ITDAs., General Managers in various corporations at State level and due to vacancy of such posts in several Districts, inconvenience is being caused for implementation of Government welfare schemes.

7. It is not in dispute that petitioners were appointed directly as Deputy

Collectors in the year 2007 through Group I service selections made by the A.P. Public Service Commission pursuant to the notification issued in the year 2003. It is to be noticed that unofficial respondents who filed V.M.A. No. 1768 of 2012 are promoted to the posts of Deputy Collectors in the year 2003 itself after their inclusion in the regular panels for such promotions. It is true in normal circumstances; respondents ought to have prepared the seniority list of direct recruits and promotees before effecting promotions to the posts" of Special Grade Deputy Collectors. Though proposals were sent by the Chief Commissioner of Land Administration as early as in the year 2009 for preparing seniority list in the cadre of Deputy Collectors and Special Grade Deputy Collectors, such proposals were returned as it was noticed that the same were not in accordance with the Rules which are applicable for preparation of seniority lists. At the same time, it is further to be noticed that there are several important posts which are to be held only by the Special Grade Deputy Collectors as evident from the counter-affidavit filed by the official respondents. They are posted as Additional Joint Collectors, District Revenue Officers, Special Collectors (Land Acquisition) in I & CAD Dept., Project Directors in DRDA/DWMA, Project Officers in ITDAs., General Managers in various corporations at state level. It is also stated in the counter affidavit that in view of the vacancy position of the posts of Special Grade Deputy Collectors, administration is facing much " inconvenience in implementation of important Government welfare schemes. It is also to be noticed that some of the candidates among promotees are nearing to attain the age of superannuation. If they are promoted as Deputy Collectors in the year 2003 after preparation of regular panels for such promotion, they cannot be deprived of promotion to the posts of Special Grade Deputy Collectors on account of delay and laches on the part of the Government authorities in preparing the seniority lists. There is no reason for depriving such candidates of promotion and at the same time, there is also no reason for not filling up various posts in District administration which are to be held only by Special Grade Deputy Collectors. As it is not in dispute that petitioners-applicants were recruited directly as Deputy Collectors in the year 2007, only four years after promotion of the unofficial respondents herein to the category of Deputy Collectors, there is no reason to withhold promotions.

8. In the judgment in B. Nageswara Rao and Others Vs. Government of A.P. and Others, , a Division Bench of this Court held that, in matters relating to seniority and promotions, an interim order, which has the effect of frustrating the impending promotions, must be avoided because, in the event of dismissal of the main application, the clock cannot be put back. The said judgment supports the case of the respondents herein. As much as it is the case of the official respondents that having regard to the vacancy position, 16 vacancies of Special Grade Deputy Collectors are pending, petitioners will not be within the zone of consideration, there is no reason to stall promotions during the pendency of the O.A. In any event, in the impugned order, the Tribunal itself observed that promotions which are to be made will be subject to result of the main application.

9. In view of the aforesaid reasons and, further, as the main application itself is pending consideration before the Tribunal, we do not find any merit in this writ petition so as to interfere with the impugned order passed by the Tribunal on the vacate petitions filed by the respondents herein. Writ petition is accordingly dismissed. Consequently, miscellaneous petitions, if any, pending in this writ petition, shall stand closed. No order as to costs.