
(2002) 03 AP CK 0122

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 2030 of 1998

R.C. Anantha Ramulu

APPELLANT

Vs

K. Nageswara Rao and Others

RESPONDENT

Date of Decision : 22-03-2002

Acts Referred:

Citation : (2002) 3 ALT 798

Hon'ble Judges : S.R.K. Prasad, J;S.R. Nayak, J

Bench : Division Bench

Advocate : C.V. Ramulu, for the Appellant; S. Gopal Rao and J. Siddaiah, S.C. for APSEB for Respondent Nos. 2 to 4, for the Respondent

Final Decision : Allowed

Judgement

S.R. Nayak, J.—The appellant is the third party to the writ petition and he has filed this writ appeal with the leave of the court assailing the correctness of the order of the learned Single Judge dated 8-9-1998 made in Writ Petition No. 11447 of 1996, The 1st respondent- herein is the petitioner in Writ Petition No. 11447 of 1996. He sought a direction to the respondents to treat his seniority in Nizamabad circle having regard to his 32 years of continued service therein and to extend all consequential benefits including promotion to the post of Foreman Grade I. The relief was opposed by the department contending that the original Nizamabad circle was subsequently divided into Nizamabad and Adilabad circles and the petitioner was transferred to Adilabad circle. At that stage the petitioner submitted an application on 8-2-1996 requesting the department to retain him at Nizamabad circle undertaking that he would take the last rank in the Nizamabad circle. The learned Judge, on consideration of these undisputed facts, has held:

I am inclined to accept the stand taken by the respondents. The petitioner did not seriously dispute about his filing an application on 8-2-1996 with intention to take last rank in the Nizamabad circle as on 8-2-1996.

2. Having so opined, the learned Judge, however, directed the respondents to fix

the seniority of the petitioner in Nizamabad circle as on 3-6-1995 and consider his case for promotion to the post of Foreman Grade-I in Nizamabad circle.

3. In the affidavit filed by the appellant herein it is stated that pursuant to the direction of the learned Single Judge another seniority list of senior Line Inspectors of operation circle, Nizamabad was prepared and the same was communicated on 30-9-1998 and in the said list the name of the writ petitioner viz., K. Nageswara Rao is shown at Sl. No. 7 and the name of the appellant does not find a place in the said revised seniority list.

4. Under those circumstances, the appellant has filed this writ appeal with the leave of the court.

5. We have heard the learned Counsel for the parties and perused the order impugned in this writ appeal. As could be seen from the observations of the learned Single Judge the writ petitioner requested the department to retain him at Nizamabad circle foregoing his seniority and agreeing to take the last rank in the seniority list. Having agreed for such an arrangement in order to retain him at Nizamabad it is not-permissible for the petitioner to turn round and claim that the 32 years of service put in by him in Nizamabad circle should also be taken into account in determining his seniority in Nizamabad circle. Be that as it may, we do not want to foreclose the issue. Suffice it to state that as a consequence of the order of the learned Judge impugned in this writ appeal a revised seniority list was prepared and communicated on 30-9-1998. We think it appropriate that the writ petition be heard afresh on merits after giving opportunity to both the sides to put forth their respective cases. Such a course of action, in our considered opinion, would be just and appropriate.

6. In the result, we allow this writ appeal and set aside the order of the learned Single Judge dated 8-9-1998. The Registry is directed to post Writ Petition No. 11447 of 1996 a week after before the appropriate court hearing writ petitions of the year 1996 after obtaining necessary orders from the Hon"ble Chief Justice.