

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU
AND
THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA
I.A.No.2 of 2023 in W.A.No.646 of 2023;
I.A.No.4 of 2023 in W.A.No.482 of 2023;
I.A.No.2 of 2023 in W.A.No.158 of 2023;
I.A.No.4 of 2023 in W.A.No.561 of 2023
and
I.A.No.3 of 2023 in W.A.No.565 of 2023

COMMON ORDER: *(per Hon'ble Sri Justice D.V.S.S.Somayajulu)*

With the consent of all the learned counsel, the arguments were heard in I.A.No.2 of 2023 in W.A.No.646 of 2023.

2) I.A.No.2 of 2023 is filed to suspend the operation of the orders, dated 08.07.2023, passed in W.P.No.21139 of 2021 by the learned single Judge. Along with this Writ Petition another W.P.No.21019 of 2021 was also heard and disposed of by a common order dated 08.07.2022.

3) Very long and detailed arguments were advanced by the learned Government Pleader for Services-II for suspension of the order. It is submitted that the case relates to regularisation in the cadre of Grade-II Hostel Welfare Officers.

The Social Welfare Department has its own subordinate service rules. According to the said rules, for the particular post, 70% should be filled up by direct recruitment, 20% by promotion from Class-IV of the Social Welfare Department etc., and 10% by transfer from Panchayatraj. It is submitted that the absorption of the present respondent-writ petitioner is beyond the 10% quota and after the orders are passed by the Andhra Pradesh Administrative Tribunal in O.A.No.5640 of 2007 and Batch, and the filing of the Contempt Application, the writ petitioner was given all the service benefits, but seniority was not given and she was placed in the appropriate place. It is also argued that the learned single Judge did not consider the aspect in its proper perspective and did not decide the issues that were raised in the counter affidavit, but simply allowed the writ petition on the ground that the High Court confirmed the orders in O.A.No.6498 of 2007 and batch, and gave a further direction for promotion to the post of Grade-I Hostel Welfare Officer etc. According to the learned counsel serious issues raised are not even touched and the order in the Writ Petition upsets the entire cadre and that the issue of excess 10%

recruitment being contrary to the service rules etc., is not even discussed.

4) Sri Santhapur Satyanarayana Rao, learned counsel for the writ petitioner-respondent submits that the writ petitioner is at the mercy of the State for the last two decades. He points out that O.A.Nos.5640 and 6498 of 2007 were filed by the writ petitioners in the year 2007. The same were allowed after contest in November, 2008. Thereafter two writ petitions were filed challenging the said order. W.P.No.18344 of 2009 was allowed on 03.09.2009 and W.P.No.19349 of 2009 was allowed on 15.09.2009. A review against the order in W.P.No.19349 of 2009 was also dismissed in April, 2010. Thereafter, in 2021 the Writ Petition was filed when petitioner's regularisation of services etc., were modified by orders dated 24.07.2021. It is also submitted that a detailed representation was made against the proposed seniority list. He submits that the writ was filed questioning the proceedings dated 07.07.2021 and the probation proceedings dated 24.07.2021 and the final seniority list is contrary to the orders passed in APAT and the Writ Petitions mentioned above. He, therefore, submits that

they cannot redraw the seniority and / or rearrange the seniority. Both on fact and law, learned counsel opposes the application for suspension and argues that the impugned order does not suffer from any illegalities.

5) This Court after hearing both the learned counsel notices the order in the Original Application before the A.P. Administrative Tribunal was passed on 28.11.2008. The order clearly stated that the applicants are entitled for permanent absorption as Hostel Welfare Officers Grade-II with effect from the date of initial appointments. Further benefits were also given. This was challenged in two writ petitions viz., W.P.No.18344 and 19349 of 2009. Both these writ petitions were dismissed. A reading of the counter affidavit show that review filed against the W.P.No.19349 of 2009 was also dismissed on 16.04.2010. As per para 19 of the stay application filed and the dismissal order, it is clear that the review petition was dismissed giving liberty to the petitioners to approach the Tribunal by filing an appropriate Review application, so that the Tribunal should consider all the factual and legal aspects arising out of the aforesaid contention and passed appropriate orders.

6) It is not clear if the said step had been taken. The order in the review application shows that the certified copy was delivered on 05.01.2023, but no details are furnished to show that a Review application has been filed in the appropriate forum so far.

7) In these circumstances, granting of suspension of the operation of the order dated 08.07.2022 in W.P.No.21139 of 2021 will not really arise. In the facts and circumstances, without pronouncing anything further on the merits of the matter, this Court is of the opinion that the petitioners have not made out a case for suspension of the order of the learned single Judge. The writ petitioner in W.P.No.21019 of 2021 was also promoted by orders dated 06.04.2023 subject to the outcome of the W.A.No.158 of 2023, which is being heard along with this batch. This is borne out by the proceedings dated 06.04.2023. Considering all the above, this Court is of the opinion that the appellants are not entitled to the suspension of the order as prayed for.

8) Accordingly, I.A.No.2 of 2023 in W.A.No.646 of 2023 is dismissed. Similarly, I.A.No.4 of 2023 in W.A.No.482 of 2023; I.A.No.2 of 2023 in W.A.No.158 of 2023; I.A.No.4 of

2023 in W.A.No.561 of 2023 and I.A.No.3 of 2023 in
W.A.No.565 of 2023 are also dismissed. No order as to costs.

JUSTICE D.V.S.S.SOMAYAJULU

JUSTICE DUPPALA VENKATA RAMANA

Date:28.08.2023.
Ssv