

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

**WRIT PETITION Nos.40372, 41570, 41580, 42188, 44296,
44308, 44356, 44648, 44799 & 45057 of 2018**

&

**CONTEMPT CASE Nos.1081, 939, 956, 969, 1421, 1432 &
1437 of 2021**

COMMON JUDGMENT:-

1. Heard Sri A. Phani Bhushan, learned counsel for the petitioners and Sri Bheema Rao, learned counsel for the respondents in all the batch of petitions.
2. Learned counsels for the parties submit that in all the writ petitions common question is involved based on the same facts and the relief claimed is of the same nature.
3. With the consent of the learned counsels for the parties, all the writ petitions are being decided by the common judgment making W.P.No.40372 of 2018, the leading writ petition.
4. Writ Petition No.40372 of 2018, under Article 226 of the Constitution of India has been filed for the following relief:-

“It is therefore prayed that this Hon’ble Court may be pleased to issue a Writ, Order more in the nature of Writ of Mandamus declaring the action of the 1st and 2nd respondents in keeping the proposals pending for inclusion name of the petitioner along with others in the 1st phase list since 2015 even in receipt of reminders, pursuant to the Letter No.CE/NTR.TGP/TPT/C2/9160/SP/DIS/2017, dated 05.07.2017 of the 1st respondent from the 3rd respondent vide Memo No.671042/R&R-A2/2017-1, dt. 21.08.2017 and Memo No.598746/R&R-A2/2017-1, dt. 29.05.2017 R/w Memo No.892539/R&R-A2/2017-1 dt. 04.12.2017 without enforcing the same is illegal and unreasonable and consequently direct the 1st and 2nd respondents to include the names of the petitioner along with others in the 1st phase list and forward the proposals to provide the benefit of G.O.Ms.No.98, dt. 15.04.1986 and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

5. The facts of the case as submitted by learned counsel for the petitioners are that in the year 1986 State Government acquired the land of many persons including 1259 persons and after their lands were submerged, they became displaced persons. Out of those 1259 persons 1258 are the petitioners in the present writ petitions.

6. On 15.04.1986, the Government issued G.O.Ms.No.98, Irrigation (Proj. Wing) Department, dated 15.04.1986 for providing appointment to the eligible displaced candidates in major and medium irrigation and power projects. Despite thereof, 1258 persons, the petitioners and one T.Sreedhar could not get any placement as their names were included in the second phase seniority list and not in the first phase seniority list. The petitioners are seeking a relief that they should be included in the first phase seniority list pursuant to the Government Memos. dated 29.05.2017, letter dated 05.07.2017, Memo dated 21.08.2017 and Memo dated 04.12.2017.

7. Sri A.Phani Kumar, learned counsel for the petitioners submits that initially a list of 320 candidates was prepared in the first phase, but, later on, because of relaxation of one year eligibility condition fresh applications were invited and out of 14,554 applications received seeking employment in terms of G.O.Ms.No.98, scrutinized by the duly constituted District Selection Committee it finalized list of 9751 displaced persons. In that list of 9751 displaced persons, the petitioners herein and one more person T.Sreedhar, were included at different places. Later on, on the petitioners' representations, Vide letter dated 05.07.2017 issued by the Chief Engineer, NTR Telugu Ganga

Project, addressed to the Secretary, Irrigation Water Resources Department, necessary permission was sought to separate the names of the eligible displaced persons from the second phase seniority list and to include them in the first phase seniority list at appropriate places in terms of G.O.Ms.No.98, dated 15.04.1986, upon which the Government Memo dated 21.08.2017 was issued, granting permission to the Chief Engineer to separate the names of those 1259 displaced persons from the second phase seniority list and include them in the first phase seniority list at appropriate place. 1258 such displaced persons are the petitioners and one other person is Sri T.Sreedhar.

8. Sri T.Sreedhar, approached this Court in W.P.No.16635 of 2018 for the same relief under the same facts and circumstances. This Court allowed the writ petition by a detailed judgment dated 22.01.2021 holding that “the objections of the State as now presented are not feasible”, and directing the respondents to include T.Sreedhar in the first phase seniority list after separation from the second phase seniority list at the appropriate place subject to the fulfillment of the eligibility conditions including the conditions in G.O.Ms.No.98, Irrigation, dated 15.04.1986. The judgment dated 22.01.2021 was affirmed in W.A.No.698 of 2021 filed by the respondents *vide* judgment dated 29.12.2021, finding no ground to interfere with the judgment dated 22.01.2021.

9. The State Government implemented the judgment dated 29.12.2021, *vide* Memo No.1312431/R&R-A2/2018-15 (C.No.470268), dated 22.02.2022 by placing the name of T.Sreedhar at Sl.No.321 in the first phase seniority list after separating his name from the second phase seniority list.

10. In view of the above learned counsel for the petitioners submits that the petitioners are also entitled for the relief claimed.

11. Sri Bheema Rao, learned Government Pleader fairly submits that the objections to the petitioner's claim herein, are the same as in W.P.No.16635 of 2018 and were dealt with by this Court in the judgment dated 22.01.2021 which stands affirmed in writ appeal No.698 of 2021 *vide* judgment dated 22.01.2021 and in view thereof it is neither open to the respondents nor he is urging the same ground of objections to the claim of the present petitioners.

12. Sri Bheema Rao, learned Government Pleader fairly does not dispute that the case of the petitioners herein would be covered by the judgment dated 29.12.2021 on principles, but he further submits that the petitioners cannot be given the benefit of the judgment dated 22.01.2021 as in W.P.No.16635 of 2018 this Court made it clear that the order was limited to the name of that petitioner (T.Sreedhar) only being included in the first phase seniority list, and the same was also observed in the appellate judgment dated 29.12.2021 in W.A.No.698 of 2021 that "it is made clear that this judgment is limited to the writ petitioner only". He further submits that the judgment dated 22.01.2021 in W.P.No.16635 of 2018 is not 'in Rem' but 'in Personam' and would apply only to the case of T.Sreedhar and not to others i.e. the petitioners herein.

13. Sri A.Phani Bhushan, learned counsel for the petitioners submits that though the relief was granted to the petitioner of W.P.No.16635 of 2018 only, but for that reason, it cannot be that the petitioners herein, who are similarly situated and had also

approached this Court in the year 2018, are not to be granted the same relief or the relief on the same terms.

14. I have considered the submissions advanced by the learned counsels for the parties and perused the material on record.

15. The point that falls for consideration in view of the submissions advanced is as follows:-

“Whether the petitioners are entitled for grant of the same relief as has been granted to T.Sreedhar in W.P.No.16635 of 2018 *vide* judgment dated 22.01.2021, a displaced person of Somasila Project similarly situated to the petitioners or not?.”

16. It is undisputed that T.Sreedhar was one of 1259 displaced persons of Somasila Project and with respect to all 1259 such persons (including 1258 petitioners) the Government Memo dated 21.08.2017 was issued to place their names in the first phase seniority list at appropriate place after separation from the second phase seniority list.

17. It is also undisputed that this Court in judgment dated 22.01.2021 held that the stand of the State Government that the instructions given were by inadvertence could not be accepted. It was further held that when directions were sought and were in fact given by the Government they must be followed and adhered to. The objections of the State as presented were held not feasible.

18. Relevant part of the judgment dated 22.01.2021 in W.P.No.16635 of 2018 reads as under:-

“The question, therefore, for consideration is whether this Memo dated 21.08.2017 confers any right on the petitioner to seek a relief from this Court.

COURT:

If Memo dated 21.08.2017 and the documents referred to in the subject/reference are seen in seriatum the following facts would emerge:

(1) On 10.01.2017 the Secretary to the Government addressed a Memo No.437432, requesting the Chief Engineer to consider the representation submitted by Sri S. Sambasiva Reddy and others. If it is found to be genuine it was directed to be placed before the District Selection Committee to separate the names from the second phase seniority list and to include them in the first phase seniority list.

(2) This was followed by a Memo No.450476, dated 20.01.2017, wherein the representation of Sri N.Venkata Subbaiah and others was referred to the Chief Engineer for examination to separate the names from the second phase seniority list and to include them in the first phase list.

(3) The third memo referred to is the Memo No.470442, dated 01.02.2017. Another Joint Secretary to the Government addressed a similar letter to the Chief Engineer, basing on the representation of P. Srinivasulu and others.

(4) Next is a Memo bearing No.483365, dated 17.02.2017 by the Joint Secretary based on the representation of D.Nandan.

(5) The next Memo bearing No.488344, dated 20.02.2017, is based upon the representation by Sri T. Ramanaiah and others. The Joint Secretary directs the Chief Engineer to take necessary action to place the memo before the District Selection committee to separate the names in the second phase seniority list.

(6) The next document is the Memo 514694, dated 13.03.2017 addressed by the Joint Secretary with the same subject based upon a representation of Sri Pidugu Suresh Kumar Reddy and others.

(7) This was followed by a Memo bearing

No.598746, dated 29.05.2017. This is by the Secretary to the Government himself. The Chief Engineer is directed to take immediate necessary action on the request of the individuals to fillup the vacancies and send the proposals pertaining to the available existing vacancies.

(8) The next document referred to is a Government Memo dated 16.06.2017 addressed by another Joint Secretary to the Government to examine the request from M. Sankaraiah and others. The Chief Engineer is directed to take necessary action to place the matter before the District Selection Committee to separate the names from second phase seniority to include them in the first phase list.

All the documents referred to above are the documents in references in the Memo dated 21.08.2017. The last document that is mentioned in this Memo dated 21.08.2017 is the request of the Chief Engineer dated 05.07.2017 himself basing on all these memos etc. In the penultimate paragraphs of letter, dated 05.07.2017, the Chief Engineer writes as follows:

“12) In view of the above factual position I request to issue necessary permission to separate the name of eligible displaced persons from the 2nd phase seniority list and include them in the 1st phase seniority list at appropriate places for providing employment to the displaced persons in terms of G.O.Ms.No.98, dt. 15.04.1986.”

After this request was made the following order was passed:

“2) In view of the above, the Chief Engineer, NTR Telugu Ganga Project, Tirupati is permitted to take necessary action to separate the names of (1259) displaced persons from the 2nd phase seniority list and to approve their (1259) names and include them in the 1st phase seniority list at appropriate places under Somasila Project if it is genuine as per the orders issued in this regard

and as per rules and as per their eligibility and suitability for provision of employment in terms of G.O.Ms.No.98, Irrigation (P.W.) Dept., dt. 15.4.1986 and other G.Os./Memos issued in the matter.”

All the documents referred to are found in the volume filed and marked as “Ex.R-1”.

*A cumulative reading of all the documents and the instructions that have been sought from time to time by officers of the rank of the Secretary/Assistant Secretary from the Government of Andhra Pradesh clearly show that they were seeking permission to separate the case of 1259 candidates. It is also important to note that the list of 9751 approved candidates as per the State was finalized on 18.06.2015 by the District Selection Committee. Despite this senior officers of the State, based upon the representations made by the various sets of people, sought the permission and approved to prepare a fresh separate list of people and to include them in the first phase. **The stand of the State Government in this case that the instructions given were by inadvertence cannot be accepted.** Almost from January to August, 2017 the matter was being pushed back and forth between the displaced persons, the Secretaries to the Government and the Chief Engineer. Ultimately, proceedings were issued as mentioned above by the Secretary directing the Chief Engineer to separate the names of 1259 displaced persons from the second phase seniority list and to approve them, to include them in the first phase seniority list at the appropriate places. It is also made clear that this approval or placement would only be there if the case of the applicant is found to be genuine as per the orders, rules, eligibility and suitability in terms of G.O.Ms.No.98. It is also important to note that in the written submissions made during the course of the submission, learned counsel for the petitioner has pointed out certain errors in the list. According to him the petitioner was placed at 644 in the said list. The petitioner’s lands were acquired in 1979-80 and therefore he contends that he should be placed above the persons indicated at serial No.1 to 10 whose lands were acquired later in 1985-87. He also points out that one Sri C.Ganapathi was included in the list while his daughter has already been*

provided employment. These are two examples which are being highlighted. In that view of the matter and in view of the sustained correspondence by the senior and responsible officials and the orders passed thereon, directing the Chief Engineer to create a separate list and to include them in the original list, this Court has to hold that the petitioner has made out a case for interference. **When directions are sought and are in fact given they must be followed and adhered to. A plain language interpretation leads to this conclusion only.** The following passage from the case of **Commissioner of Police Bombay v Gordhandas Bhanji**¹ authorized by Justice Vivian Bose in his inimitable style is very apt:

“9.We are clear that public orders publicly made, in exercise of statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself”. (Emphasis supplied).

Even in the celebrated case of **Mohindhr Singh Gill and Another v Chief Election Commissioner, New Delhi and Others**² it was held that action is to be judged by the reasons stated in the original order itself. **The objections of the State as now presented are not tenable.** The stand of the State that there was one list of candidates who were already absorbed is also not borne out by the record.”

19. The Writ Appeal No.698 of 2021 against the judgment dated 22.01.2021 was dismissed on 29.12.2021. The Hon’ble Division Bench of this Court observed and held that when a direction was

¹ AIR 1952 SC 16

² (1978) 1 SCC 405

issued by the Secretary of the Government or the joint Secretary of the Government, they are intended to be implemented and not to violate. Further, the contention of the learned counsel for the appellants in Writ Appeal (respondents herein), that if such implementation is allowed everyone will approach this Court was held not to be a ground to reject the prayer of the writ petitioner.

20. Para Nos. 6 to 7 of the judgment dated 29.12.2021 in Writ Appeal No.698 of 2021 are reproduced as under:-

“6. It is an undisputed fact that on 10.01.2017, the Secretary to the Government addressed a Memo bearing No.437432 requesting the Chief Engineer to consider the representation submitted by Mr. S.Sambasiva Reddy and others and if it is found to be genuine, it was directed to be placed before the District Selection Committee to separate the names from the second phase seniority list and to include them in the first phase seniority list. Similarly, Memo bearing No.450476, dated 20.01.2017, and Memo bearing No.470442, dated 01.02.2017, were issued in respect of other similarly placed persons and a Memo bearing No.483365, dated 17.02.2017, was issued by the Joint Secretary based on the representation of one D.Nandan. Lastly, a Memo bearing No.488344, dated 20.02.2017, was issued by the Joint Secretary on the basis of the representation of one Sri T.Ramanaiah and others. The Joint Secretary directed the Chief Engineer to take necessary action to place the memo before the District Selection Committee to separate the names from the second phase seniority list. Similarly, Memo bearing No.514694, dated 13.03.2017, Memo bearing No.598746, dated 29.05.2017, and Memo dated 16.06.2017 were issued in respect of other similarly placed persons. The Memo, dated 21.08.2017, is the request of the Chief Engineer, dated 05.07.2017, basing on all these memos but the contention of the appellants herein is that the memos were issued inadvertently. The memos were not issued by a subordinate service employee but they were issued by an officer in the cadre of Secretary level in the State, for implementation. In the case of others, it appears

that the memos were issued but in the opinion of the writ petitioner, the memos were not implemented extending the benefit of placing him in the first phase seniority list by separating from the second phase seniority list in terms of G.O.Ms.No.98, dated 15.4.1986. The cumulative effect of all the documents and instructions that have been issued/sought from time to time by officers of the rank of Secretary/Joint Secretary to the Government of Andhra Pradesh clearly show that they were seeking permission to separate 1259 candidates. It is also important to note that the list of 9751 approved candidates as per the State was finalized on 18.06.2015 by the District Selection Committee. Despite the direction, no action was taken. The learned single Judge also observed that in the written submissions made during the course of the submissions, learned counsel for the petitioner pointed out that when this Court cannot issue a direction to rectify the error or this Court cannot undertake such rectification, it is for the Department to take appropriate action to rectify the errors but it is the only plea of the appellants that those memos were inadvertently issued. Such plea is not substantiated by any material and **when a direction was issued by the Secretary of the Government or the Joint Secretary of the Government, they are intended to be implemented and not to violate. Therefore, it is the duty of the appellants to implement those memos and place the writ petitioner at an appropriate place in a separate list, separating from the second phase seniority list but the learned counsel for the appellants contended that if such implementation is allowed, everyone will approach this Court but this is not a ground to reject the request of the writ petitioner in the writ petition.** Hence, we find no ground to interfere with the order, dated 22.1.2021, passed in W.P.No.16635 of 2018 by the learned single Judge. However, time for implementation of the order is extended for a period of two (2) months from the date of receipt of a copy of this judgment. It is made clear that this judgment is limited to the writ petitioner only.

7. Accordingly, the Writ Appeal is disposed of. No costs. Pending miscellaneous applications, if any, in this Writ Appeal shall stand closed.”

21. It is also undisputed that the Government issued Memo.No.1312431/R&R-A2/2018-15 (C.No.470268), dated 22.02.2022 to implement the judgment dated 29.12.2021.

22. The memo dated 22.02.2022, reads as under:-

**“GOVERNMENT OF ANDHRA PRADESH
WATER RESOURCES (R&R) DEPARTMENT**

Memo.No.1312431/R&R-A2/2018-15 (C.No.470268)

Dated : 22.02.2022

Sub	SUITS – Hon’ble High Court of A.P. – Orders dt. 11-02-2019 on C.C.No.1719 Of 2018 and CC.No.1082 of 2021 filed by T.Sreedhar, S/o. Ankaiah Naidu, Unemployee, R/o. Badvel (V), Kadapa District – Reg.
Ref:-	1. From the Assistant Registrar, Hon’ble High Court of A.P., Orders dt. 02-05-2018 in W.P.No.16635 of 2018 filed by Sri T. Sreedhar, S/o Ankaiah Naidu, displaced persons of Somasilla Project.
	2. Govt.Memo.No.1312431/R&R-A2/2018-1, W.R(R&R) Deptt., Dated 16-05-2018.
	3. From the Deputy Registrar, Hon’ble High Court of A.P., Orders dt. 20-07-2018 on C.C.No.1719 of 2018 in W.P.No.16635 of 2018 filed by T.Sreedhar, S/o Ankaiah Naidu, Unemployee, R/o. Badvel (V), Kadapa District.
	4. Govt. Memo.No.1312431/R&R-A2/2018-3, W.R(R&R) Dept, Dated 10-08-2018.
	5. From the Deputy Registrar, Hon’ble High Court of A.P., Orders dt.11-02-2019 in C.C.No.1719 of 2018 filed by Sri T.Sreedhar, S/o Sri Ankaiah Naidu.
	6. From the G.P. for Water Resources High Court, Amaravathi, Lr. No. CC.No.1719/2018/WRD/HC, dated 13.11.2019.
	7. Govt. Memo. No.1312431/R&R-A2/2018-8 W.R.deptt. dt. 25.11.2019
	8. From the Assistant Registrar, Hon’ble High Court of A.P. Orders, Dt. 24.01.2020 in I.A.No.2019 in CC.No.1719 of 2018 in W.P.No.16635 of 2018 filed by Sri T. Sreedhar, S/o AnkaiahNaidu.
	9. Govt. Memo.No.1312431/R&R-A2/2018-9(C.No.470268), dt.31.01.2020
	10. From the Assistant Registrar, Hon’ble High Court of A.P., Orders dt.23.03.2020 in WVMP.No.2 of 2018 in W.P.No.16635 filed by Sri T.Sreedhar, S/o AnkaiahNaidu.
	11. Govt. Memo.No.1312431/R&R-A2/2018-10(C.No.470268), dt: 03.06.2020.
	12. From the Deputy Registrar, Hon’ble High Court of A.P., Orders, dt: 28.08.2020 in Writ Appeal No.280/2020 in WV.MP/IA No.2/2018 in WP.No.16635 filed by Sri T.Sreedhar, S/o. Ankaiah Naidu Common Orders dt. 22.01.2021.
	13. From the Superintending Engineer, Somasila Project Circle, Nellore, SPSR Nellore District, Lr.No.SE/SPC/NLR/WP.No.16635/2018 & C.C.No.1719/2018/E-5/77M and 286M, dates 30.01.2021 and 15.03.2021.
	14. Govt.Memo.No.1312431/R7R-A2/2018-11(C.No.470268), dt: 03.05.2021
	15. From the SE., Somasila Project Circle, SPSR Nellore Dist., Lr.No.SE/SPC/NLR/WP.No.16635/2018 & C.C.No.1719/2018/E-5/512M, Dt. 07.06.2021.
	16. Govt. Memo.No.1312431/R&R-A2/2018-11 (C.No.470268), dt: 23.08.2021.
	17. Memo.No.1312431/R&R-A2/2018-12 (C.No.470268, dt: 23.08.2021.
	18. From the Hon’ble High Court of A.P.Orders dated: 29.12.2021 in Writ Appeal No.698/2021 filed against the order on W.P.No.16635/2018.
	19. From the S.E., Somasila Project Circle, SPSR Nellore District., Lr.No.SE/SPC/NLR/W.A.No.698 of 2021/E-5/70M, Dt. 25.01.2022.

The attention of the Superintending Engineer, Somasila Project, Dargamitta, Nellore is invited to the references cited and he is directed to implement the Hon'ble High Court orders dt. 29-12-2021 in Writ Appeal No.698 of 2021 as per rules in force and to avoid further legal complications in this matter.

Dr K.S.JAWAHAR REDDY
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Superintending Engineer, Somasila Project Circle.”

23. Further undisputed fact is that the name of T.Sreedhar has been included at serial No.321 in the first phase seniority list after separation of his name from the second phase seniority list. The minutes of the Meeting dated 21.03.2022 at agenda point No.1 of the District Selection Committee reads as under:-

“MINUTES OF THE MEETING HELD ON 21-03-2022 IN THE
COLLECTOR'S OFFICE, KADAPA, Y.S.R. DISTRICT.

The District Selection Committee met on 21-03-2022 in the Collector's Office at District Collectorate, Kadapa, Y.S.R. District. The following Officers participated in the meeting.

1. Sri V.Vijay Rama Raju, IAS,
District Collector & Chairman of District Selection Committee.
2. Smt. M.Gowthami, IAS,
Joint Collector & Member of District Selection Committee.
3. Sri M.Rama Mohan,
Special Collector (L.A), GNSS, Kadapa.
4. Sri B.V.Ramana Reddy, B.Tech.,
Superintending Engineer & Convener of District Selection Committee.

The Committee after detailed discussions made the following decisions in the process of providing employment to the displaced persons of Somasila Project.

AGENDA POINT NO.1:-

Discussions to take follow up action to separate the name of Sri.T.Sreedhar, S/o.Ankaiah Naidu from 2nd phase list of 9751 Nos. (who is at serial No.654) and include in the 1st phase list of 320 Nos. for providing employment as per the orders of the Hon'ble High Court of A.P., in W.P.No16635/2018 and W.A.No.698/2021 and also as per the instructions of the Government vide Memo.No.1312431/R&R-A2/2018-15 (C.No.470268) Dated 22.02.2022.

In pursuance of order of the Hon'ble High Court of A.P. dated 22-01-2021 in W.P.No16635 of 2018 and orders dated 29-12-2021 in W.A.No.698 of 2021 and also as per the instructions of the Government's Memo.No.1312431/R&R-A2/2018-15 (C.No.470268) Dated 22.02.2022 the name of Sri T.Sreedhar, S/o. Sri T.Ankaiah Naidu who is a displaced person under Somasila Project may be incorporated at Sl.No.321 in the first phase seniority list after separation him from the second phase seniority list at Sl.No.654.

318	256	P. Lakshmi Reddy	Singaravaripalli	28.08.1977	28.02.2005	21.10.2005		3/94-95	27	35	11	B.Sc., MBA	OC	O.A.No.8051/05
319	256-A	T. Jayachandra, S/o. Venkatapati	Virur	01-06-1981	01-03-2005	29.02.2012	09/97-98	11/28/97	16	33	11			
320	257	Gilaka Venkataiah S/o. Venkataiah	Gajulapalli	04.05.1958	12-09-2005	14-03-1990		17/86-87, 12-9-86	32	49	11	Inter	SC	OANo.3045/1998 WP No.20756/99

Sd/
Member Convener, Selection Committee,
Superintending Engineer, Somasila Project,
Nellore

Sd/-
Member, Selection Committee,
Joint Collector, Y.S.R. Kadapa District,
Kadapa.

Sd/-
Chairman,
Selection Committee,
District Collector,
YSR Kadapa District, Kadapa.

As per the Orders of the Hon’ble High Court of A.P., in W.P.No.16635 of 2018 and W.A.No.698 of 2021 and terms of Government instructions the name of the petitioner after separation from the Second phase seniority list and placed in the First phase seniority list.

121	654 in 9751 List	Tummala Sreedhar, S/o. Ankaiah Naidu	Isukapalli	01-06-1975	14-09-1989	06-072004	3/80-81, 25-09-1980	1/79-80, 05-03-1979	4	40	1	B.A.L	OC	W.P.No.16635/2018 WA No.698/2021
-----	---------------------	---	------------	------------	------------	-----------	------------------------	------------------------	---	----	---	-------	----	-------------------------------------

Sd/-
Member Convener, Selection Committee,
Superintending Engineer, Somasila Project,
Nellore

Sd/-
Member, Selection Committee,
Joint Collector, Y.S.R. Kadapa District,
Kadapa.

Sd/-
Chairman,
Selection Committee,
District Collector,
YSR Kadapa District, Kadapa.

24. The only submission of the learned Government Pleader is that in the judgment dated 22.01.2021 the Court made it clear that it was limited to that writ petitioner only, and the same was affirmed in writ appeal also.

25. In this present case, vide above referred Government Memos a conscious decision was taken and direction was issued for separation of the names of 1259 persons from the second phase seniority list and for inclusion in the first phase seniority list, under which the petitioners’ right to be included in the first phase seniority list was recognized or conferred. Once such benefit was given to one of the displaced persons, similarly situated to the petitioners, the petitioners cannot be denied the same benefit based on the same Government Memo(s). This Court *vide* judgment dated 22.01.2021, held that once directions are sought

and were infact given, they must be followed and adhered to. Consequently, the petitioners cannot be denied the benefit of the same Government Memo(s), dated 29.05.2017 & others on the same issue.

26. A reading of the judgment dated 29.12.2021 shows that the contention of learned Government Pleader that if the Government Memos were directed to be implemented everyone will approach this Court, was rejected by the Division Bench of this Court holding that, that was not a ground to reject the request of the petitioner therein who was found entitled for the relief. Similarly the petitioners herein being entitled to the same relief, as their claim is also based on the same set of facts i.e. G.O.Ms.No.98 and Government Memo(s) referred to above the implementation of which, this Court clearly held is the duty of the respondents, if the benefit of those judgments is denied to the petitioners herein that would be travesty of justice.

27. A reading of the judgment makes it clear that the relief was given to Sri T.Sreedhar as he was the only petitioner in that writ petition, but it does not follow, that those who had already approached this Court, they would not be entitled for the same relief claimed, on the principles of law as laid down in that judgment. If the petitioners had approached this Court belatedly or after the judgment dated 22.01.2021 this might be, possibly, but not necessarily, a ground to deny the same relief. The present petitioners cannot be denied the same relief only on the ground that the relief in W.P.No.16635 of 2018 was given to the petitioner therein only.

28. The contention as is being raised by Sri Bheema Rao, placing such meaning to the judgments dated 22.01.2021 & 29.12.2021, if accepted would amount to denial of relief to the petitioners herein, if entitled, without even hearing them whereas they cannot be non-suited without hearing and if after hearing they are found entitled to the same relief cannot be denied the relief particularly when they are similarly situated to Sri T.Sreedhar which fact is not in dispute and when they had also approached this Court in the same year 2018, like Sri T.Sreedhar, who filed separate petition in 2018, only because his W.P.No.16635 of 2018 was decided in earlier point of time and the writ petitions of the present petitions remained pending.

29. The persons similarly circumstanced cannot be denied the same relief as extended to others by this Court and they cannot be discriminated or treated differently by denying the same relief. This Court is the protector of the fundamental rights of persons/citizens guaranteed by the Constitution of India. whenever there is violation of the fundamental right of a person against equality before law or the equal protection of laws by the State or its instrumentalities. This Court will not discriminate between the petitioners approaching this Court for the same relief if they are similarly situated based on the principle of equality, unless there are good grounds to deny the same relief e.g. belated claims; the conduct of the petitioner is such so as to disentitle him to the discretionary and equitable relief or the claim is based on negative parity etc, which is not the case herein.

30. In ***K.Krishnamacharyulu and others vs. Sri Venkateswara Hindu College of Engineering and Another***³, there were executive instructions issued by the Government giving the daily wagers the right to claim the pay scales so as to be on a par with the Government employees and the daily wagers who filed the writ petition but later on withdrew the writ petitions, were paid salaries on a par with the Government employees by the employer. The Hon'ble Apex Court held that the persons who approached the Court and insisted upon enforcement of their right through the judicial pressure need protection of law and cannot be denied the same benefit which was made available to others.

31. The submission of the learned Government Pleader is that the judgments dated 22.01.2021 and 29.12.2021 are not in rem but in personam. Learned Government Pleader however has neither elaborated the argument nor has explained as to how, on such principle the petitioners can be denied the same relief.

32. In ***Booz Allen & Hamilton Inc v. SBI Home Finance Limited***⁴, the Hon'ble Apex Court held that a right in rem is a right exercisable against the world at large, as contrasted from a right in personam which is an interest protected solely against specific individuals. Actions in personam refer to actions determining the rights and interests of the parties themselves in the subject-matter of the case, whereas actions in rem refer to actions determining the title to property and the rights of the parties, not merely among themselves but also against all persons at any time claiming an interest in that property. Correspondingly, judgment in personam refers to a judgment against a person as distinguished from a

³ (1997) 3 SCC 571

⁴ (2011) 5 SCC 532

judgment against a thing, right or status and Judgment in rem refers to a judgment that determines the status or condition of property which operates directly on the property itself.

33. In ***Deccan Paper Mills Company Ltd. Vs. Regency Mahaveer Properites***⁵, the Hon'ble Apex Court held that judgment in rem settles the destiny of the res itself and binds all persons claiming an interest in the property. A judgment in personam although it may concern a res, merely determines the rights of the litigants inter se to the res. With respect to judgment in rem it was further held that the judgment binds all persons claiming an interest in the property, inconsistent with the judgment even though pronounced in their absence. So, the judgment pronounced in the absence of the persons claiming an interest in the property consistent with their claim would also be binding as regards the direction made in res, like it binds all persons claiming an interest in the property inconsistent with the judgment.

34. The determination in the judgment dated 22.01.2021 with respect to the subject matter i.e. the Government Memos. dated 29.05.2017, letter dated 05.07.2017, Memo dated 21.08.2017 and Memo dated 04.12.2017, on the issue involved, that it is the duty of the state respondents to implement those memos and not to violate in the considered view of this Court, is a declaration in rem, though the relief was granted to the petitioner of W.P.No.16635 of 2018 only which was before the Court in that writ petition.

35. The argument of the learned Government Pleader based on judgment in rem & in personam does not advance his cause any further.

⁵ (2021) 4 SCC 788

36. Nothing has been argued on merits, to deny the same relief to the petitioners at par the case of T.Sreedhar.

37. The Court does not find any reason to deny the same benefit/relief to the petitioners at par the judgment dated 22.01.2021 in W.P.No.16635 of 2018.

38. For the aforesaid reasons, all the writ petition Nos.40372, 41570, 41580, 42188, 44296, 44308, 44356, 44648, 44799 & 45057 of 2018 are allowed and direction is issued to the respondents to include the names of the petitioners, after separation from the second phase seniority list, in the first phase seniority list, at the appropriate places, subject to fulfillment of all the eligibility conditions by the petitioners, including the conditions as laid down in the G.O.Ms.No.98, dated 05.04.1986.

39. Let the entire exercise be completed within a period of one (01) month from the date the copy of this judgment is placed before the respondents. No order as to costs.

40. **CONTEMPT CASE Nos.1081, 939, 956, 969, 1421, 1432 & 1437 of 2021:-**

After considering the submissions advanced by the learned counsels for the parties, this Court is of the view that in view of the interpretation placed by the respondents in the facts and circumstances of the case, it cannot be said that there was willful, deliberate, disobedience of the interim orders passed in the aforesaid writ petitions. Therefore this Court does not find any willful, deliberate or contemptuous conduct on the part of the respondents in the contempt petitions, which are accordingly dismissed.

As a sequel thereto, miscellaneous petitions, if any pending,
shall also stand closed.

RAVI NATH TILHARI,J

Date: 07.07.2022

NOTE:-

L.R. Copy to be marked

B/o

SCS

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

253

WRIT PETITION Nos.40372, 41570, 41580, 42188, 44296,
44308, 44356, 44648, 44799 & 45057 of 2018

&

CONTEMPT CASE Nos.1081, 939, 956, 969, 1421, 1432 &
1437 of 2021

Date: 07.07.2022

Scs