

HON'BLE SRI JUSTICE A.V.SESHA SAI
AND
HON'BLE SRI JUSTICE RAVI CHEEMALAPATI
WRIT PETITION No.5370 OF 2022

ORDER:- *(Per AVSS,J)*

Heard Sri K.Bheema Rao, learned Government Pleader for Services-III, for petitioners and Sri P.Raghavendra Reddy, learned counsel for the respondent/applicant.

2. Respondents in O.A.No.1727 of 2014, on the file of the Andhra Pradesh Administrative Tribunal (herein after called the Tribunal) are the petitioners in the present Writ Petition, filed under Article 226 of the Constitution of India. This Writ Petition calls in question the order passed by the Tribunal in the above mentioned Original Application. By way of an order dated 03.04.2017, the Tribunal disposed of the said Original Application, with a direction to the respondents therein/petitioners in the present Writ Petition, to sanction and release the minimum time scale of pay (Basic+DA) attached to the regular post born on the Last Grade Service, without any other allowances including increments as per revised pay scales from time to time with arrears of three years prior to institution of the O.A, i.e., 06.03.2014 and continue to pay till the applicant is in service.

3. According to the applicant, he was initially appointed as watchmen on contingent basis, with effect from 01.07.1990 in

the office of the Executive Engineer-petitioner No.5 herein. The Superintending Engineer-petitioner No.4 vide letter bearing No.SE/SRBC.1/NDL/AB/EC.3/13 ENC, dated 07.03.2012, requested the Engineer-in-Chief (IW), Irrigation & CAD Department to send proposals to the Government for sanction of minimum time scale of pay+DA to as many as 11 individuals including the respondent/applicant. When the authorities did not take any action pursuant to them said letter, the respondent herein approached the Tribunal by way of filing O.A.No.1727 of 2014. The Tribunal after completion of pleadings in the said Original Application, by way of the order assailed in the present Writ Petition, disposed of the Original Application, in the manner indicated supra. This Writ Petition challenges the validity and the legal sustainability of the said order passed by the Tribunal.

5. It is contended by Sri K.Bheema Rao, learned Government Pleader for Services-III, that the order passed by the Tribunal is highly erroneous, contrary to law and the Tribunal passed the impugned order without taking into consideration the material available on record. It is further submitted by the learned Government Pleader that, having regard to certain agreements entered into between the Department and the applicant, the respondent/applicant herein cannot be construed as a contingent employee in the Department and the Tribunal lost

sight of the said significant aspect which touches the very root of the matter.

6. On the contrary, Sri P.Raghavendra Reddy, learned counsel for the respondent/applicant submits that, since there is no jurisdictional error or patent perversity in the order passed by the Tribunal, the order of the Tribunal is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted by the learned counsel that having regard to the conclusions arrived at by the Tribunal, on the basis of the material available, the said conclusions cannot be interfered with under Article 226 of the Constitution of India, by way of judicial review.

7. In the above back drop, now the issues that emerge for consideration of this Court in the present Writ Petition are:

“i) whether the order passed by the Tribunal, which is impugned in the present Writ Petition warrants any interference of this Court, under Article 226 of the Constitution of India?

ii) Whether the petitioners herein are entitled for any relief in the present Writ Petition?”

8. There is absolutely no controversy with regard to the factum of recommendation made by the Superintending Engineer-petitioner No.4 herein, vide letter dated 07.03.2012 addressed to the Engineer-in-Chief and there is also no dispute as regards the existence of the name of the respondent in the annexure attached to the said letter, showing the applicant as a contingent

employee. It is also significant to note in this context that, when Srisailam Right Bank Canal Workers' Union approached the composite High Court by way of filing W.P.Nos.20449 and 21563 of 1994, the composite High Court initially dismissed the said Writ Petition by way of an order dated 17.01.2007 and when the petitioners in the said Writ Petition filed a Review W.P.M.P.No.11239 of 2007, the composite High Court vide order dated 23.04.2007 restored the main writ Petition and subsequently vide order dated 19.06.2007, W.P.Nos.20449 and 21563 of 1994 were closed while taking into consideration the proceedings of the Superintending Engineer, SRBC Circle No.1, Nandyal, dated 20.01.2006. A copy of the said proceedings is also placed on record along with the counter affidavit of the respondent in the present Writ Petition. In the said proceedings dated 20.01.2006 of the office of the Superintending Engineer, name of the respondent/applicant herein was shown at Serial No.88. The said proceedings also further discloses that the applicant herein came to be converted as Full time Regular NMR. Therefore, the contention contra advanced by the learned Government Pleader with regard to the status of the applicant cannot be sustained. A perusal of the order passed by the Tribunal, in clear and vivid terms, discloses that the Tribunal after elaborately considering various issues including the orders passed by the State Government vide G.O.Ms.No.542, Municipal

Administration and Urban Development Department, dated 31.08.2009, G.O.Ms.No.823, Municipal Administration and Urban Development dated 28.11.2008, G.O.Rt.No.1225, Panchayat Raj and Rural Development (Estt.II-A) Department, dated 22.08.2009 and G.O.Rt.No.493, Municipal Administration and Urban Development, dated 26.04.2011, passed the order, challenged in the Writ Petition. The Tribunal also took into consideration the judgments of the Hon'ble Apex Court for arriving at the conclusions.

9. In the considered opinion of this Court, there is neither jurisdictional error nor there is any patent perversity in the order passed by the Tribunal which warrant issuance of writ in the nature of Writ of Certiorari. Therefore, this Court is not inclined to meddle with the order passed by the Tribunal.

10. For the aforesaid reasons, the Writ Petition is dismissed. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending shall also stand dismissed.

JUSTICE A.V.SESHA SAI

JUSTICE RAVI CHEEMALAPATI

Date:21.04.2022

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**HON'BLE SRI JUSTICE A.V.SESHA SAI
AND
HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**

WRIT PETITION No.5370 of 2018

Date: 21.04.2022

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