

PETITIONER:
C.NAVANESWARA REDDY

Vs.

RESPONDENT:
GOVERNMENT OF A.P. & ORS.

DATE OF JUDGMENT: 09/02/1998

BENCH:
K. VENKATASWAMI, A.P. MISRS

ACT:

HEADNOTE:

JUDGMENT:
THE 9TH DAY OF FEBRUARY, 1998

Present:

Hon'ble Mr. Justice K.Venkataswami
Hon'ble Mr. Justice A.P.Misra

L.Nageswara Rao, V.Sridhar Reddy, G.Ramakrishna Prasad, and
S.Uday Kumar Sagar, Advs. for the appellant
A.Subba Rao, A.D.N. Rao, D.Prakash Reddy, Ms. D.Bharathi
Reddy, Advs. for the Respondent.
K.Ram Kumar, Ms. Asha G. Nair, C.Balasubramanian,
Y.Subba Rao, Santi Narayana, Advs. for State of A.P.

J U D G E M E N T

The following Judgment of the Court was delivered:
K. Venkataswami, J.

These appeals by special leave are directed against the common judgment of the Andhra Pradesh Administrative Tribunal at Hyderabad dated 13.7.1995 in O.A. Nos. 252, 277, 412, 447 and 783 of 1995. The contesting unofficial respondents in each of the appeals in this Court were the applicants before the Tribunal. Their common grievance was against the order of the Andhra Pradesh Government in G.O. Rt. No. 1881, Revenue (Endowments.I) Department dated 28.11.1994. By the impugned Government order, the Government of Andhra Pradesh at the instance of the appellant herein gave him seniority in Executive officers Grade-IV over the contesting unofficial respondents in these appeals.

The Tribunal by the judgment under challenge, without going into the merits of the case, quashed the impugned G.O. on the short ground that the impugned G.O. was hit by Section 19(4) of the Administrative Tribunals Act, 1985. The Tribunal observed as follows:-

"The impugned G.O. 1881 dated 28.11.1994 make a reference to the interim order passed by this Tribunal in O.A. No. 7112/92 dated 2.12.1992 wherein neither the third respondent herein nor V.V. Subbareddy, who is also referred to in the impugned G.O. figure among the Respondents. In fact the main contention of the applicants in

this O.A. is that for promotion to grade-I Executive Officer, merit and ability is the criterion under rule 10(1) of A.P. Endowments Executive officers Subordinate Service Rules, and therefore, he should be given a place above the Respondents therein and the proceedings dated 27.10.1992 should be set aside. Thus, the main subject matter in the O.A. No. 7112/92 is the seniority list of Grade-I Executive Officer, whereas the main theme of the impugned G.O. is seniority in Executive Officers Grade-IV. Hence it cannot be claimed to be in obedience to that order of the Tribunal.

No doubt in addition to the above, the Tribunal also incidentally observed that the Government was not right in re-opening a matter in 1993 disturbing orders passed in 1983.

Learned counsel appearing for the appellant, who is common in all these appeals, submitted that the view of the Tribunal that the impugned Government order was hit by section 19(4) of the Administrative Tribunals Act, 1985, was on a wrong construction of that Section and even on facts, that conclusion cannot be sustained. Likewise, he also challenged the finding of the tribunal that by the impugned Government order, orders passed in 1983 were sought to be disturbed.

Learned counsel appearing for the contesting unofficial respondents in all these appeals supporting the reasons given by the Tribunal for quashing the impugned G.O. also submitted that the Government before passing the impugned G.O. invited objections from the aggrieved parties by issuing Memo No. 99590/Endowments-I/92 dated 25.3.1994 and all the contesting unofficial respondents sent detailed objections to the memo and the Government without applying its mind to the objections simply confirmed the view expressed by it in its Memo dated 25.3.1994. On that ground alone, the order of the Tribunal, including the directions, ought to be sustained.

We find force in the argument of the learned counsel appearing for the contesting unofficial respondents in all these appeals and without going into the correctness or otherwise of the reasons given by the Tribunal for quashing the impugned G.O., we are satisfied from a careful reading of the impugned G.O. that the Government have not applied its mind before rejecting the objections raised by the contesting unofficial respondents. As a matter of fact, the objections, raising points both on law and on facts, were dealt with by the Government in the impugned G.O. by observing as follows:-

"In view of the above position, the Government see no reason to uphold the objections raised by the affected persons and hereby reject them as untenable."

Beyond this, there was no discussion regarding the objection raised by the contesting unofficial respondent. Therefore, we find substance in the argument of the learned counsel for the contesting unofficial respondents. Accordingly, we confirm the judgment and order of the Tribunal challenged in these appeals. We direct the

Government to take further steps in the light of the directions given by the tribunal within a period of four months and in the meanwhile the appellant's seniority and promotion shall not be disturbed till the Government passes orders in the light of the directions given by the Tribunal. The appeals are accordingly dismissed. However, there will be no order as to costs.

JUDIS