

OFFICE OF THE COMMISSIONER OF LABOUR:: AP :: HYDERABAD

A/372/2015-1

MEMO

Dated 12-06-2015

Sub: ESTABLISHMENT - LABOUR DEPARTMENT - A.P.General Subordinate Services - Appeal dated 09-04-2015 of Sri N.Suresh Kumar, Asst.Labour Officer, Gudur against final seniority list of Asst.Labour Officers issued by the Jt.Commissioner of Labour, Guntur vide proceedings dated 02-04-2015 - Rejected - Reg.

Ref:1) Procs.No.A/617/2015, dated 02-04-2015 of the Jt.Commissioner of Labour, Guntur.

2)Appeal dated 09-04-2015 of Sri N.Suresh Kumar, Asst.Labour Officer, Gudur against final seniority dated 02-04-2015 issued in the category of Asst.Labour Officers of Zone-III by the Jt.Commissioner of Labour, Guntur.

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Through the reference 2nd cited, Sri N.Suresh Kumar, Asst.Labour Officer, Gudur has submitted an appeal against the final seniority list issued by the Jt.Commissioner of Labour, Guntur in the category of Asst.Labour Officers. The issues raised in his appeal is as follows:-

- a) The Head Office persons who have been appointed in the zonal posts of Asst.Labour Officers are not eligible to assign seniority on or after 07-11-2001 in view of the orders issued by the Hon'ble A.P.Administrative Tribunal in O.A.No.1854 of 1997 and batch of cases.
- b) Consequent on issue of G.O.Ms.No.2, Social Welfare (SW ROR-1) Department, dated 09-01-2004, 8 vacancies of Asst.Labour Officers have been filled up on appointment by transfer, but no SC candidate was promoted in the said vacancies in Zone-III as the 2nd and 7th vacancies are supposed to be filled by SC candidates. Therefore he requested to fix his seniority notionally against the vacancy meant for SC candidate.

The appeal submitted by Sri N.Suresh Kumar, Asst.Labour Officer, Gudur is examined with reference to the G.Os issued by the Government from time to time under Rule of Reservation and also as per the Roster of appointments made in the category of Asst.Labour Officers and also keeping in view of the Court orders in the matter of appointment by transfer from Head Office to Zonal posts.

REPLY TO POINT NO.[a]

The Hon'ble APAT in its orders dated 27-03-2003 in O.A.No.1854 of 1999 and batch of cases saved the promotions already made prior to 07-11-2001 which was confirmed by the Hon'ble Supreme Court of India in its judgment dated in Civil Appeal No.4947-4951 of 2014 arising out of SLP No.36274-78 of 2010. Therefore whether a person is shown substantively prior to 07-11-2001 or thereafter the facts still remain that all the persons were promoted as Asst.Labour Officers prior to 07-11-2001. Once the promotions were saved, be it temporary or permanent and there is no specific mention by the Hon'ble APEX Court that only regular promotees are saved, where the persons substantive promotions fall prior to 07-11-2001 or after 07-11-2001 would make no difference. Any interpretation drawn, it would amount to committing Contempt of the judgment of the Hon'ble Supreme Court. In that view of the matter, whether the applicant would fall prior to 07-11-2001 or

thereafter in as much as they are completely saved without any condition by the Hon'ble APEX Court and admitted fact that they were being promoted prior to 07-11-2001, they cannot be touched even if seniority is altered beyond 07-11-2001. Further, a review petition No.262-266 in Civil Appeal No. 4947-4951 filed by Sri T.Chakrapani, Asst.Labour Officer and others was also dismissed by the Hon'ble Supreme Court. Apart from the above facts the same issue, is once again questioned before the Hon'ble A.P.Administrative by filing O.A.No.5126 of 2014 by Sri M.Sambasiva Reddy, Senior Assistant, Nellore District and Sri N.Seshagiri Rao, the unofficial respondent presently working as Asst.Commissioner of Labour is contested the case. The Hon'ble APAT heard the case and did not convince the pleadings of the Council for applicant and rejected to grant any stay/interim direction, but advised the Government to file counter affidavit. Accordingly, a counter affidavit has also been filed to dismiss the said O.A. Hence, the matter is subjudice and this office is not inclined to dig up the settled issues and mis-interprets the orders of the Supreme Court of India at this juncture, to face the contempt and disrupt the smooth functioning of administration while the similar matter is pending before the Hon'ble APAT. Therefore the final seniority list of Zone-III stands good and the same cannot be altered.

REPLY TO POINT NO.(b)

The contention of the individual that none of the SC candidates have been promoted against 2nd and 7th SC point after issuance of G.O.Ms.No.2, Social Welfare (SW ROR-1) Department, dated 09-01-2004 is denied. This Department for considering appointment by transfers, either on temporary or against the regular/substantive vacancy, the promotions have to be affected duly following the cycle of appointments as prescribed in G.O.Ms.No.14 and 22, LET&F Department, dated 26-11-1994 and 09-05-1996 and also duly following Rule of reservations in promotions prescribed vide G.O.Ms.No.2 supra. Consequent on issue of G.O.Ms.No.2 supra, certain promotions have been considered in the category of Asst.Labour Officers against the vacancies earmarked for Direct recruits. Such temporary promotions affected after issuance of G.O.Ms.No.2 supra and accordingly the candidates who have been promoted temporary their date of seniority is determined in the substantive vacancies are furnished hereunder:-

ROR Roster Point	Name of the individual promotion as ALO	Date of temporary promotion as ALO against DR vacancies	Date of Regular /substantive vacancy arose	Date of seniority assigned in the category of ALO
1-Gen	Smt D.Lakshmi	27-02-2004	04-05-05	04-05-05
2-SC	Smt NDV Kurpadanam	27-02-2004	01-07-05	01-07-05
3-Gen	Sri S.Anjaneyulu	11-02-2004	01-07-05	01-07-05
4-Gen	Sri G.Rangaswamy Sarma	08-08-2005	01-11-05	01-11-05
5-Gen	Sri V.Krishna Rao	29-07-2005	---	Retd.on 31-03-06 i.e before regular vac. arose and therefore he is not covered in the seniority list
6-Gen	Sri Shaik Gouse	20-03-2006	01-09-06	01-09-06
1-Gen (LWC)	Smt G.Dhanalakshmi	28-02-2006	01-09-06	01-09-06
7-SC	Sri N.Suresh Kumar	---	---	10-10-08 (promotion)

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As seen from the above Smt NDV Krupadanam was promoted against 2nd -SC point and Sri N.Suresh Kumar was promoted against 7th -SC point which is in order as per the roster. Further he is informed that he was assigned seniority in the category of Senior Assistant w.e.f. 10-03-2004 as such he is eligible for promotion to the post of Asst.Labour Officer only after completion of (3) Years period in the category of Senior Assistants i.e. after 09-03-2007 as per Special Rules issued vide G.O.Ms.No.14 supra. Therefore he was promoted as Asst.Labour Officer after completion of (3) years and also against 7th -SC point by-passing his seniors i.e. S/Sri 1)P.Sasidhar Reddy, 2)K.V.Rama Devi, 3)P.Padmavathi, 4) K.Pavan Kumar in the category of Senior Assistants on strict implementation of Rule of reservation in promotions. In view of the above, the contention of the individual that no SC candidate was promoted against 2nd and 7th SC points is not true and it is a false claim put forth by him in his appeal.

In view of the above, the appeal filed by Sri.N.Suresh Kumar, Asst.Labour Officer, Gudur against the seniority of Asst.Labour Officers issued by the Jt.Commissioner of Labour, Guntur in the reference 1st cited, does not merit for consideration and the same is hereby rejected.

SD/-D.VARAPRASAD,
COMMISSIONER OF LABOUR

To
Sri N.Suresh Kumar, Asst.Labour Officer, Gudur
Copy to:-
The Jt.Commissioner of Labour, Guntur.

//FORWARDED BY ORDER//

DY.COMMISSIONER OF LABOUR (ADMN.)

