

**PROCEEDINGS OF THE COMMISSIONER OF LABOUR
ANDHRA PRADESH :: HYDERABAD**

**PRESENT : SRI D.VARAPRASAD, I.A.S.,
STATION : HYDERABAD - 500 020**

No.A1/12990/2012

Dated:06-08-2015

Sub: ESTABLISHMENT - LABOUR DEPARTMENT - Contempt Application No. 1905 of 2012 on the Orders dated 18-11-2011 of the Hon'ble APAT in O.A.No.576 and 5256 of 2008 filed by Sri C.Srihari Rao, Asst.Labour Officer (Retd.) - Non implementation in view of orders of the Hon'ble APEX Court 29-04-2014 in Civil Appeal Nos. 4947-4951 of 2014 arising out of SLP No. 36274-78 of 2010 and also as per the interim orders dated 16-06-2015 in O.A.No.2483 of 2015 of the Hon'ble APAT - Reg.

Ref: Contempt Application No. 1905 of 2012 in O.A.No.576 and 5256 of 2008 filed by Sri C.Srihari Rao, Asst.Labour Officer (Retd.)

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ORDER:-

The applicant Sri C.Srihari Rao, Asst.Labour Officer (Retd.) has filed O.A.No.576 of 2008 seeking orders from the Hon'ble A.P.Administrative Tribunal for review of inter-se-seniority list of Asst.Labour Officers in accordance with the orders of the Hon'ble High Court of Andhra Pradesh in W.P.No.6068 of 2004 dated 09-03-2007 and affect promotion to the post of Labour Officer. He also filed another O.A. 5256 of 2008 seeking orders for promotion as Labour Officer re-designated as Asst.Commissioner of Labour based on the final orders of Hon'ble High Court of Andhra Pradesh in W.P.No.6068 of 2004 dated 09-03-2007. The prayers of the applicant in both the O.As are one and the same.

According to the applicant as per the orders issued in W.P.No.6068 of 2004 dated 09-03-2007 the authorities are bound to delete the list of persons who have earned their promotions under the Head Office quota and accordingly the resultant vacancies have to be filled up by the personnel working in the subordinate Offices, and it is bound to review the promotions in the category of Asst.Labour Officers and promote him as Labour Officer which is re-designated as Asst.Commissioner of Labour.

The Hon'ble A.P.Administrative in its final orders dated 08-11-2011 in O.A.No. 576/2008 and its batch cases issued directions, which is as follows:-

"In these circumstances, O.A. 576/2008 and O.A. 5256/2008 are allowed and the respondents are directed to review the inter-se-seniority list of Assistant Labour Officers in accordance with the law laid down by the Hon'ble High Court of Andhra Pradesh in W.P.No.6068/2004, dated 9th March, 2007, and revise the inter-se-seniority list of Assistant Labour Officers, strictly in accordance with law laid down by the Hon'ble High Court in the above Writ Petition and effect promotions to the post of Labour Officer, and consequently direct the respondents to consider the case of the applicant for promotion to the post of Labour Officer, as per his eligibility, seniority etc., strictly in accordance with the orders in W.P.No.6068/2004, and pass appropriate orders within a period of three months from the date of receipt of this orders."

The above orders could not be implemented in view of the orders dated 16-12-2010 of the Hon'ble Supreme Court of India in SLP (Civil) No.18648-18652 of 2010 and also the final orders of the Hon'ble APEX Court 29-04-2014 in Civil Appeal Nos. 4947-4951 of 2014 arising out of SLP No. 36274-78 of 2010 in the back drop of the case as narrated below:-

The Hon'ble A.P.Administrative Tribunal in its orders dated 27-03-2003 in O.A. No. 1854/97 and batch of the cases declared that the Special Rules issued in G.O.Ms.No. 14, Labour, Employment and Training (Lab.IV) Department, dated 26-11-1994 as amended in G.O.Ms.No.22, Labour, Employment, Training and Factories (Lab.IV) Department, dated 09-05-1996 providing channel of promotion to the Senior Assistants and Senior Stenographers in A.P. Ministerial Services working in the Head Office of the Labour, Factories and Boilers Departments and Subordinate Offices in the Factories and Boilers Departments for appointment by transfer to the post of Asst.Labour Officer and related provisions providing for quota and rotation etc., to these categories are declared void being violative of the mandatory provisions in the A.P.Public Employment (Organisation of Local cadres and regulation of Direct Recruitment order 1975 and directed the respondents not to give effect to these provisions. The Hon'ble A.P.Administrative Tribunal also directed that any action taken in compliance with these rules till 07-11-2001 shall not be disturbed so as to result in reversion of any employee from the post to which he has been promoted under these rules.

Aggrieved by the above orders of the Hon'ble Tribunal, the applicants in O.A.No.1854 of 1997, challenged the cut of date 07-11-2001 as determined by the Hon'ble A.P.Administrative Tribunal before the Hon'ble High Court of AP in W.P.No.6068 and 6123 of 2004. The Hon'ble High Court in its orders dated 09-03-2007 held that "the decision of the Supreme Court enunciating a principle of Law, is applicable to all cases irrespective of the stage of its pendency. The law laid down by the Supreme Court must be held to be the law from the inception, unless the Supreme Court itself indicates that its decision will be operative prospectively. It is not open for Courts/ Tribunals to apply the law laid down by the Supreme Court only from the date on which the judgment came to be passed. In the absence of any direction by the Supreme Court, in the judgement of "V.Jagannadha Rao Case (AIR SC) that the law laid down therein is prospective in operation, it was not open to the Tribunal to hold that the law would be apply prospectively only from 07-11-2001 i.e. date of the judgement in V.Jagannadha Rao. The order of the Tribunal to the limited extent that the judgement in V.Jagannadha Rao was held applicable only from 07-11-2001 must accordingly, be set aside. As a result W.P.No.6123 and 6068 of 2004 are allowed".

In pursuance of the orders of the Hon'ble Tribunal in O.A.No.1854 of 1997 and batch of cases and the orders of the Hon'ble High Court in W.P.No.6068 and batch of cases, the Government vide G.O.Ms.No.60, LET&F (Lab.IV) Department, dated 17-07-2010 have directed to implement the above orders and to review the appointments made since 1986 i.e. inception of the Special Rules issued vide G.O.Ms.No.72, LET&F (Lab.IV) Department, dated 25-02-1986. Accordingly, a show cause notice was issued to the individuals, who were appointed by transfer to the localized posts of Asst. Labour Officers and above cadre in the Zones from Head Office to be reverted back to the original posts in Head Office vide Show Cause Notice No.A2/6425/2004, dated 29-07-2010.

The affected employees (Head Office persons) who have occupied various positions in the Zones and Multi Zones carried the matter to the Supreme Court of India in SLP (Civil) No.18648-18652 of 2010. The Hon'ble APEX Court vide its order dated 16-12-2010 was pleased to pass the following order:-

Permission to file Special Leave Petition granted.

Issue notice on the Special Leave Petition as also on the application for condonation of delay, returnable on 07-03-2011. Since, Ms.Sudha Gupta, learned counsel appearing for Respondent No.5 & 8, accepts notice on their behalf, service of notice on them, is dispenses with. The respondents will be entitled to file their respective counter affidavits to the Special Leave Petitions within six week from date. Rejoinder, if any, may be filed within two week thereafter.

In the meantime, the petitioners shall not be reverted from their posts.'

The SLP (Civil) No.18648-18652 of 2010 which is converted as SLP No. 36274-36278 of 2010 have come up for hearing before the Hon'ble Supreme Court of India on 07-03-2011 and the Hon'ble Supreme Court issued orders as follows:-

"Having regard to the letter circulated on behalf of the respondent No.5 in the first matter, who is also common in some of the other matters, three weeks' time is granted to file the counter affidavit.

Rejoined affidavit, if any, may be filed within two weeks thereafter.

The interim order passed on 16th December, 2010 shall continue in the meantime.

The petitioners in W.P.No.6123 of 2004 have filed Contempt Applications 1271 of 2007, 9 of 2009 and 151 of 2010 before the Hon'ble High Court of Andhra Pradesh for non implementation of the orders dated 9-03-2007 passed by the Hon'ble High Court of Andhra Pradesh in W.P.No.6068 and 6123 of 2004.

In order to implement the orders in W.P.No.6068 and 6123 of 2004 and to avoid Contempt proceedings of the High Court and to review the promotions and seniority of the employees of Subordinate Offices by deleting the names of the Head Office persons as a preliminary step, reversions have been effected vide proceedings No.A1/6425/2004, dated 04-09-2013 to the following individuals to their original post shown at Col.No.4 from which post in Head Office, they were appointed by transfer to the Zonal posts and subsequently promoted in the Multi Zonal and State wide posts subject to the outcome of the SLP No.36274-78/2010 pending before the Hon'ble Supreme Court of India.

Sl. No.	Name of the Individual	Working as Deputy/Asst.Commr.of Labour/ Asst.Labour Officer & Station	Reverted to the post of
(1)	(2)	(3)	(4)
1)	R.Srinivasa Rao	DCL, Kurnool	Senior Assistant
2)	M.Narasimha Murthy	ACL, Rajahmundry	Senior Assistant
3)	Ch.Prakash Rao	ACL, Kakinada	Senior Assistant
4)	K.Vidya Sagar	DCL deputation under APB&OCWWB, Hyd	Senior Assistant
5)	K.A.Subba Rao	ACL, Dharmavaram	Senior Assistant
6)	T.Siva Kumar	ACL, Adoni	Senior Assistant
7)	G.Shanti Bai	ACL, Cir-I, Hyderabad	Senior Steno
8)	E.Hanumantha Rao	DCL, on deputation to HMWS&SB, Hyd	Senior Steno
9)	A.Gandhi	DCL, Karimnagar	Senior Assistant
10)	P.Penchalaiah	ACL(SSS), Kadapa	Senior Assistant
11)	N.V.Chalapathi Rao	ACL(SSS), Kurnool	Senior Steno
12)	K.Omkar Rao	ACL(SSS), Chittoor	Senior Assistant
13)	R.Venkateswarlu	ACL(SSS), Circle-I, Guntur	Senior Assistant
14)	D.V.Padmaja	ACL(SSS) working in the O/O Secy, APB&OCWWB, Hyderabad (on Leave)	Senior Assistant

15)	SVSR Murthy	ACL(SSS), Tenali	Senior Assistant
16)	N.Seshagiri Rao	ACL(SSS), Cir-II, Guntur	Senior Assistant
17)	K.Madhava Reddy	ACL(SSS), Hyderabad (West)	Senior Assistant
18)	T.Sesham Raju	ACL(SSS), Cir-I, Rangareddy	Senior Assistant
19)	B.Narasimha Rao	ACL(SSS), Khammam	Senior Steno
20)	P.Isac Raju	ACL(SSS), Hyderabad (East)	Senior Assistant
21)	KVV Satyanarayana	ACL(SSS), Cir-II, Rangareddy	Senior Assistant
22)	S.Ramesh Babu	ACL(SSS), Warangal	Senior Assistant
23)	L.Krishna	ALO, Cir-III, Visakhapatnam	Senior Assistant
24)	K.Ramakrishna Rao	ALO, Cir-III, Vizianagaram	Senior Steno
25)	B.S.Mahaboobvali	ALO, Cir-II, Bhimavaram	Senior Steno
26)	G.V.B.Chowdary	ALO-III, Rajahmundry	Senior Assistant
27)	D.S.V.Satyanarayana	ALO, Tadepalligudem	Senior Steno
28)	AVSS Krishna Kumar	ALO, Cir-I, Tanuku	Senior Assistant
29)	S.Amar Kumar	ALO, Cir-7, Vijayawada	Senior Assistant
30)	V.Nanaji Rao	ALO, Cir-I, Bhimavaram	Senior Assistant
31)	M.Ramachandra Moorthy	ALO of Zone-III working on deputation in APLWB, Hyd., Hyderabad	Senior Assistant
32)	Ch.Chandra Kumar	ALO, Cir-IV, Nellore	Senior Steno
33)	P.S.R.Murthy	ALO, Sathupally	Senior Assistant
34)	K.Vivekananda Murthy	ALO, Cir-19, Hyderabad	Senior Assistant
35)	J.Ashok Kumar	ALO, Cir-9, Hyderabad	Senior Assistant

Aggrieved by such action, the above affected employees of Head Office individuals have approached the Hon'ble Supreme Court of India and filed Contempt Petitions © No.445-449 of 2013 in SLP (C) No. 36274-78 of 2010. The Hon'ble APEX Court in its orders dated 29-04-2014 in Civil Appeal Nos. 4947-4951 of 2014 arising out of SLP No. 36274-78 of 2010 set aside the orders of the Hon'ble High Court issued in WP No.6068 and 6124 of 2004 held that

"in the result, we allow these appeals, set aside the orders passed by the High Court and hold that while G.O.Ms.No.14 and 22 have been rightly declared to be ultra vires of the Presidential Order by the State Administrative Tribunal, the said declaration shall not affect the promotions and appointments made on the basis of the said G.O.Ms. prior to 7th November, 2001, the date when Jagannadha Rao's was decided by this Court."

Contempt Petitions (C) No. 445-449 of 2013

In the light of the above order passed by us, we see no reason to continue with these proceedings which are hereby closed and the Contempt Petitions dismissed.

In view of the above, the orders of the Hon'ble High Court of Andhra Pradesh in W.P.No.6068 and 6124 of 2004 have become null and void. The employees of Head Office who have been reverted as shown above were saved and protected by the orders of Hon'ble Supreme Court of India and their respective positions and seniorities have been saved. Accordingly, a seniority list in the category of Asst.Labour Officers has been drawn by the competent authority i.e. Jt.Commissioner of Labour, Eluru vide proceedings No. A/1045/2015, dated 21-04-2015 in which Sri C.Srihari Rao, Asst.Labour Officer (Retd.) was assigned seniority in the category of ALO w.e.f.01-02-2005 as per his turn and vacancy. Sri D.S.V.Satyanarayana who has been originally promoted as ALO on 03-03-1998 in Zone-II from Head Office i.e. prior to 07-11-2001 (cut of date), has assigned seniority w.e.f. 01-05-2003 in the substantive vacancy. Aggrieved by his placement in seniority he has filed O.A.No2483 of 2015, in which the Hon'ble A.P.Administrative Tribunal issued interim orders on 16-06-2015 directing the official respondents to maintain status-quo.

Therefore, the claim of Sri C.Srihari Rao, Asst.Labour Officer (Retd.) for seniority and promotion in accordance with the final orders dated 18-11-2011 of Hon'ble APAT in O.A.No.576 and 5256 of 2008 relying upon the orders of the Hon'ble High Court in W.P.No.6068 and 6123 of 2004 is not possible to be implemented in view of the final orders of the Hon'ble APEX Court 29-04-2014 in Civil Appeal Nos. 4947-4951 of 2014 arising out of SLP No. 36274-78 of 2010 and also as per the interim orders dated 16-06-2015 in O.A.No.2483 of 2015 of the Hon'ble APAT.

SD/-D.VARAPRASAD,
COMMISSIONER OF LABOUR

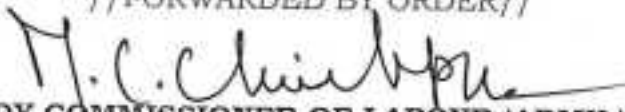
To

Sri C.Srihari Rao, Asst.Labour Officer (Retd.) through the Jt.Commissioner of Labour, Eluru.

Copy to:-

The Government Pleader for Labour, Hon'ble A.P.A.T., with a request to file before the Hon'ble Tribunal with reference to the Contempt Application No. 1905 of 2012 on 10-08-2015 at the time of hearing.

//FORWARDED BY ORDER//


DY.COMMISSIONER OF LABOUR (ADMN.)

