

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

A/372/2015-3

MEMO

Dated 12-06-2015

Sub: ESTABLISHMENT - LABOUR DEPARTMENT - A.P.General Subordinate Services - Common objection submitted by certain Staff working in Zone-I, II, III and IV against final seniority list of Asst.Labour Officers issued by the Jt.Commissioner of Labour, Visakhapatnam, Eluru, Guntur and Kurnool- Rejected - Reg.

- Ref:1) Procs.RC.No.A/1265/2015, dated 23-03-2015 of Jt.Commissioner of Labour, Visakhapatnam.
- 2) Procs.No.A/1045/2015, dated 23-03-2015 of the Jt.Commissioner of Labour, Eluru
- 3) Proceedings No.A/617/2015, dated 24-03-2015 and No.A/617/2015, dated 02-04-2015 of the Jt.Commissioner of Labour, Guntur.
- 4) Proceedings No.A/396/2015, dated 26-03-2015 of the Jt.Commissioner of Labour, Kurnool.
- 5) Orders of the Hon'ble Supreme Court in Civil Appeals No.4947-4951 of 2014 arising in SLP No.36274-78 of 2010.
- 6) Common Objection Submitted by certain Staff of Zone-I and Zone-II against provisional seniority lists issued in the category of Asst.Labour Officers by the Jt.Commissioners of Labour, Vsp and Eluru.
- 7) Common Objection Submitted by certain Staff of Zone-III and Zone-IV against provisional seniority lists issued in the category of Asst.Labour Officers by the Jt.Commissioners of Labour, Guntur and Kurnool.

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Through the reference 6th and 7th cited, certain Staff working in the Subordinate Offices of Zone-I, II, III and IV have been submitted a common objection against the provisional seniority lists issued by the Jt.Commissioner of Labour, Visakhapatnam, Eluru, Guntur and Kurnool vide reference 1st to 4th cited respectively in the category of Asst.Labour Officers. The objection raised by them is as follows:-

As per the orders issued by the Hon'ble A.P.Administrative Tribunal in O.A.No.1854 of 1997 and batch of cases and accordingly as per the Hon'ble Supreme Court orders in Civil Appeal No.4947-4951 of 2014, the seniority list of Asst.Labour Officers has to be reviewed w.e.f. 07-11-2001. But, surprisingly, the Joint Commissioners of Labour in all the 4 zones issued provisional seniority lists of Asst.Labour Officers showing the names of the persons appointed from Head Office in the vacancies arisen after 07-11-2001. Continuance of the names of the Head Office persons in the vacancies arising after 07-11-2001 contravenes the orders issued by the Hon'ble Tribunal as well as the Hon'ble Supreme Court. Hence, they strongly objected for inclusion of the names of personnel promoted from Head Office in the seniority lists of ALOs after cut of date i.e. 07-11-2001 and requested to issue necessary instructions to all the Jt.Commissioners of Labour in the state to recast the seniority list duly following the orders of the Hon'ble A.P.A.T. and the Hon'ble Supreme Court of India.

The objection submitted by the Staff of Zone-I, II, III and IV in the reference 6th and 7th cited is examined with reference to the orders of the Hon'ble A.P.Administrative Tribunal and the Hon'ble Supreme Court of India.

REPLY

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 misinterprets 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 in O.A.No.5126 of 2014 filed by Sri M.Sambasiva Reddy, Senior Assistant of Zone-III and in O.A.No.2483 of 2015 filed by Sri D.S.V.Satyanarayana, ALO, Circle-II, Rajahmundry. In the final seniority lists it was made clear that the said lists subject to the cases pending before various courts. Hence, the seniority lists issued by the Jt.Commissioners of Labour concerned in Zone-I, II, III and IV cannot be altered at this juncture.

In view of the above, the objections filed by certain staff of Zone-I, II, III and IV vide reference 6th and 7th cited with a request to issue necessary directions to the Jt.Commissioner of Labour concerned to recast the seniority list by deleting the names of ALO who assigned seniority after 07-11-2001, does not merit for consideration and the same is hereby rejected, as the matter is subjudice and pending before the Hon'ble A.P.Administrative Tribunal.

SD/-D.VARAPRASAD,
COMMISSIONER OF LABOUR


To

The applicants concerned through JCLs concerned.

Copy to

The Jt.Commissioners of Labour, Visakhapatnam, Eluru, Guntur and Kurnool. They are requested to inform the same to the applicants accordingly.

//FORWARDED BY ORDER//


DY.COMMISSIONER OF LABOUR (ADM.)