

Andhra Pradesh State Road Transport Corporation & Ors.

v.

V.V. Brahma Reddy & Anr.

(Civil Appeal No. 5267 of 2024)

06 September 2024

[Pamidighantam Sri Narasimha* and Pankaj Mithal, JJ.]

Issue for Consideration

The appellant issued a notification dated 08.06.2017 repatriating employees who were on deputation, including the present respondents, to their parent cadres in TSRTC, i.e., to the zones in which they were initially appointed. The respondents challenged the notification. In writ appeals, taking note of the guidelines for allocation formulated by both Corporations (APSRTC and TSRTC), the High Court passed an interim order dated 18.04.2018 suspending the order of the Single judge of the High Court and directing the respondents to report in their parent zones under the TSRTC, where they were initially appointed, as the guidelines for allocation of employees were jointly finalised by APSRTC and TSRTC. In continuation of the said order, this time the High Court took a different view of the matter and directed permanent allocation of the respondents in their deputational posts falling in the State of Andhra Pradesh.

Headnotes[†]

Andhra Pradesh Reorganisation Act, 2014 – s.77 and s.82 – Whether the High Court’s reliance on Section 77 is correct as it applies to state government employees, and whether it is Section 82 that governs the services of the respondents as it relates to employees of Public Sector Undertakings:

Held: From the text of the provisions, it is evident that Section 77 applies to state government employees – Section 82 clearly states that the Corporations shall determine the modalities for distributing their employees between the successor states – Pursuant to this, the Board prepared the Agenda Note dated 16.08.2017 that sets out the allocation of various kinds of employees between APSRTC and TSRTC – Upon going through the Agenda Note, it is found

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that the Board had decided that Class III and Class IV employees, who are appointed at the regional level, are to be allocated to the Corporation in which the region falls after bifurcation – There is no dispute about the fact that the respondents were recruited at the regional level and belong to the successor state Corporation in which the region falls – In this view of the matter, following the statutory mandate of Section 82 read with the Agenda Note dated 16.08.2017, the respondents will continue their employment in the same region, which is under the present TSRTC – The High Court has incorrectly relied on Section 77 of the Act and has in fact failed to notice Section 82 and the follow-up action taken thereunder – The High Court also ignored the correct enunciation of the applicable law in the order dated 18.04.2018, whereunder the respondents were directed to report at their parental zones as per the guidelines – There is no dispute about the applicability of Section 82 – The division bench of the High Court failed to note that the respondents who were on deputation were not absorbed in the deputed posts – In fact, their seniority is continued in their parental zones – The High Court also did not consider the subsequent development when the respondents were in fact repatriated to their parent cadre as a consequence of the order passed by the division bench on 18.04.2018 – It is for this reason that this Court had, at the stage of admission, stayed the judgment of the division bench on 05.10.2020, which stay is continuing till date – The consequence is that the respondents have returned to this parent cadre in the State of Telangana – For the reasons stated, the judgment of the Division Bench of the High Court is unsustainable. [Paras 11, 12, 13, 14, 15, 16]

List of Acts

Andhra Pradesh Reorganisation Act, 2014; Constitution of India.

List of Keywords

Section 77 of Andhra Pradesh Reorganisation Act, 2014; Section 82 of Andhra Pradesh Reorganisation Act, 2014; Bifurcation of State; Andhra Pradesh State Road Transport Corporation (APSRTC); Telangana State Road Transport Corporation (TSRTC); Class III and Class IV employees; Validity of repatriation orders; Zones of initial appointment; Repatriating employees; Allocation of employees; Parent zone.

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Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5267 of 2024
From the Judgment and Order dated 21.11.2019 of the High Court
of Andhra Pradesh at Amravati in WA No. 260 of 2018

With

Civil Appeal Nos. 5268, 5269 5270, 5271, 5272, 5273, 5274, 5275,
5276, 5277, 5278, 5279, 5280, 5281, 5282, 5283, 5284, 5285, 5286,
5287, 5288, 5289, 5290 and 5291 of 2024

Appearances for Parties

Gourab Banerji, Sr. Adv., Ashish Kumar Tiwari, Anurag Tiwari, Sahib
Patel, Advs. for the Appellants.

Vivek Sharma, GVR Choudary, Peram Ravi Teja, Vivek Sharma,
Manoj Tomar, Sri Ruma Sarasani, Krishna Kumar Singh, Advs. for
the Respondents.

Judgment / Order of the Supreme Court

Judgment

Pamidighantam Sri Narasimha, J.

1. These appeals are against the common judgment of the High Court of Andhra Pradesh dated 21.11.2019 dismissing the writ appeals filed by the appellant herein and upholding the order of the single judge of the High Court allowing the respondents' writ petitions and quashing orders repatriating them to their parental zones. Relevant and necessary facts are as follows.
2. The State of Telangana was formed under Section 3 of the Andhra Pradesh Reorganisation Act, 2014¹ comprises of territories mentioned therein, and by virtue of Section 4, remaining the territories constituted the State of Andhra Pradesh. The bifurcation of states came into effect on 02.06.2014 and this is declared to be the appointed date under the Act.
 - 2.1 Prior to bifurcation of the erstwhile State of Andhra Pradesh, the Andhra Pradesh State Road Transport Corporation (APSRTC)²

¹ Hereinafter "the Act".

² Hereinafter "APSRTC".

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functioned in the unified State of Andhra Pradesh. After state reorganisation, the Corporation was bifurcated and the Telangana State Road Transport Corporation (TSRTC),³ respondent no. 2 herein, was formed w.e.f. 02.06.2015 (appointed date for the Corporations) to function in the State of Telangana, while APSRTC continued to function in the residual part of State of Andhra Pradesh.

- 2.2 The respondents in these appeals were Class III and Class IV employees who were working as conductors, drivers and shramiks. They were appointed between 2014 to 2017 in districts, and more particularly zones carved out under the Presidential Order, read with Article 371D of the Constitution, that formed part of Telangana, which areas now fall within the State of Telangana. These respondents were temporarily deputed to zones which now form part of the bifurcated State of Andhra Pradesh. The orders of deputation were extended by way of several notifications issued from time to time, some deputations were made even after the bifurcation of the Corporations, pending finalisation of guidelines for permanent allocation of employees. We may mention at this very stage that the issue in these appeals is about validity of the repatriation orders that were passed by the appellant APSRTC, relegating the respondents to the zones of their initial appointment.
3. Returning to the chronology of facts, it needs to be noted that on 18.06.2015 the Government of India reconstituted the APSRTC Board of Directors with members from the central government, State of Andhra Pradesh, and State of Telangana to determine the permanent allocation of employees between the Corporations. On 16.08.2017, the Board prepared a detailed Agenda Note, which was approved on 24.08.2017. The Agenda Note sets out the modalities for allocation of state cadre, zonal and regional cadre of employees of the Corporations.
4. Before the finalisation of the Agenda Note, the appellant issued a notification dated 08.06.2017 repatriating employees who were on deputation, including the present respondents, to their parent cadres in TSRTC, i.e., to the zones in which they were initially appointed.

3 Hereinafter "TSRTC".

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The respondents challenged this notification and the consequent repatriation orders passed by Depot Managers by filing writ petitions before the High Court.

5. The writ petitions were heard and allowed by the Single Judge by an order dated 10.11.2017 on the ground that, upon bifurcation of the two Corporations the guidelines for allocation of employees between them had not been finalised. Thus, the single judge set aside the repatriation orders.
6. The appellant filed the writ appeals and brought the Agenda Note dated 16.08.2017 and its approval dated 24.08.2017 to the notice of the division bench. Taking note of the guidelines for allocation formulated by both Corporations, the High Court passed an interim order dated 18.04.2018 suspending the order of the single judge and directing the respondents to report in their parent zones under the TSRTC, where they were initially appointed, as the guidelines for allocation of employees were jointly finalised by APSRTC and TSRTC. The matter was listed for further hearing on the issue of payment of salaries. The relevant portion of the order is extracted herein:

“We are informed that the posts, with which we are concerned in this batch of cases, are not State level posts and the orders of repatriation, which were subjected to challenge, merely sought to send back the employees concerned who were on transfer in zones other than the zones in which they were appointed. As the posts were only zonal posts, the question of allocation of the employees occupying such posts between the two new States would not arise.

We are also informed that the Andhra Pradesh State Road Transport Corporation (APSRTC) and the Telangana State Road Transport Corporation (TSRTC) have come out with guidelines jointly with regard to the employees of the erstwhile APSRTC and allocation and apportionment of such employees. In the light of the order passed by the learned Judge setting aside the repatriation orders, the employees, who are on transfer in Zones 1 to 4 of Andhra Pradesh, though they were appointed either in Zone 5 or in Zone 6 in the State of Telangana, are still working at

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the transferred location. This situation cannot be allowed to continue in the light of the subsequent guidelines formulated by both the Corporations.

Sri N. Praveen Reddy, learned counsel appearing for the TSRTC, would inform this Court that his client is ready and willing to accept the employees sought to be repatriated by the present APSRTC.

In that view of the matter, there shall be interim suspension as prayed for. The employees covered by the repatriated orders, the Respondents in these appeals, shall forthwith report in their parent zones under the TSRTC where they were appointed. The issue of payment of salaries to the Respondents-employees will be considered on the next date of hearing.

Learned Advocate General for the State of Andhra Pradesh appearing for the APSRTC undertakes to use his good offices to see that the issue as to payment of salaries is resolved amicably.

Post on 13.06.2018.”

7. In continuation of the above-referred order, the High Court of Andhra Pradesh at Amaravati took up the writ appeals and passed the order impugned before us. This time, the High Court took a different view of the matter and directed permanent allocation of the respondents in their deputational posts falling in the State of Andhra Pradesh. The High Court also ruled on their seniority. In coming to this conclusion, the High Court drew an analogy with the 3rd proviso to Section 77(2) of the Act. It held that even though Section 77 applies to state government employees, an analogy must be adopted by the appellant for allocation of its own employees. Hence, local, district, zonal, and multi-zonal cadre employees, even of corporations, will be deemed to be allotted to the successor state where they are serving on the appointed date. Since the respondents were posted and serving under the appellant on 02.06.2015, it was directed that they shall be deemed to be permanently allocated to the APSRTC in the zones where they were working.
8. Mr. Gourab Banerji, learned senior counsel, appearing for the appellant has submitted that the High Court's analogy with Section

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77 is incorrect and that it has not taken note of Section 82 of the Act or properly considered the guidelines framed by the Corporations for allocation of Class III and Class IV employees. He has taken us through the Agenda Note dated 16.08.2017, which provides that Class III and Class IV employees are recruited at a regional level and belong to the respective Corporation in which the region falls after bifurcation. Hence, the Board found that there is no necessity for formulating guidelines for the allotment of these employees between the two Corporations. He submits that this decision has not been challenged and is hence final. He has also submitted that pursuant to the interim order dated 18.04.2018, the respondents have already reported at their parent zones falling under TSRTC. Sri Ruma Sarasani, learned counsel appearing for TSRTC, respondent no. 2 supports the appellant's case.

- 8.1 On the other hand, Mr. G.V.R. Choudary, learned counsel appearing for the respondents supports the impugned order and also submits that the approval of the Agenda Note dated 24.08.2017 is only with respect to allocation of state-cadre employees, and does not extend to Class III and Class IV employees. Hence, the modalities for allocation have not been decided as required under Section 82.
9. Having heard the parties, the issue before us is whether the High Court's reliance on Section 77 is correct as it applies to state government employees, and whether it is Section 82 that governs the services of the respondents as it relates to employees of Public Sector Undertakings.
10. In order to appreciate the rival contentions, it is necessary to consider Section 77 as well as Section 82 of the Act. Examination of the scope and ambit of these provisions sufficiently indicates the correct answer to the question arising for consideration. The provisions are extracted herein:

“Section 77. Provisions relating to other services. —

(1) Every person who immediately before the appointed day is serving on substantive basis in connection with the affairs of the existing State of Andhra Pradesh shall, on and from that day provisionally continue to serve in connection with the affairs of the State of Andhra Pradesh

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unless he is required, by general or special order of the Central Government to serve provisionally in connection with the affairs of the State of Telangana:

Provided that every direction under this sub-section issued after the expiry of a period of one year from the appointed day shall be issued with the consultation of the Governments of the successor States.

(2) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (1) shall be finally allotted for service, after consideration of option received by seeking option from the employees, and the date with effect from which such allotment shall take effect or be deemed to have taken effect:

Provided that even after the allocation has been made, the Central Government may, in order to meet any deficiency in the service, depute officers of other State services from one successor State to the other:

Provided further that as far as local, district, zonal and multi-zonal cadres are concerned, the employees shall continue to serve, on or after the appointed day, in that cadre:

Provided also that the employees of local, district, zonal and multi-zonal cadres which fall entirely in one of the successor States, shall be deemed to be allotted to that successor State:

Provided also that if a particular zone or multi-zone falls in both the successor States, then the employees of such zonal or multi-zonal cadre shall be finally allotted to one or the other successor States in terms of the provisions of this sub-section.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein, be made available for serving in the successor State from such date as may be agreed

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upon between the Governments of the successor States or, in default of such agreement, as may be determined by the Central Government: Provided that the Central Government shall have the power to review any of its orders issued under this section.

Section 82. Provision for employees of Public Sector Undertakings, etc.—*On and from the appointed day, the employees of State Public Sector Undertakings, corporations and other autonomous bodies shall continue to function in such undertaking, corporation or autonomous bodies for a period of one year and during this period the corporate body concerned shall determine the modalities for distributing the personnel between the two successor States.*”

(emphasis supplied)

11. From the text of these provisions, it is evident that Section 77 applies to state government employees. Section 82 clearly states that the Corporations shall determine the modalities for distributing their employees between the successor states. Pursuant to this, the Board prepared the Agenda Note dated 16.08.2017 that sets out the allocation of various kinds of employees between APSRTC and TSRTC. Upon going through the Agenda Note, we find that the Board has decided that Class III and Class IV employees, who are appointed at the regional level, are to be allocated to the Corporation in which the region falls after bifurcation. We are extracting the relevant portion here:

“Regional Level Recruitments: The Class III and IV cadres like Drivers, Conductors, Mechanics, Artisans, etc., are recruited at Regional Level i.e., Revenue District wise. There are 12 regions in 13 revenue districts of residual AP state since Srikakulam and Vizianagaram districts are considered as North East Coast Region. There were 10 districts in Telangana area prior to the appointed day i.e., on 02.06.2014. the seniority of these posts is also maintained at Regional level. The presidential order of making recruitment in the ratio of 80% of the posts to local

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district candidates and 20% to non (illegible) candidates is followed in such recruitments. Since the recruitments and seniority levels are at regional level, the distribution of these employees between two entities i.e., in 67,868 posts in residual APSRTC and 61,864 to TSRTC should not be an issue as they were recruited at Regional level (local cadre) and belong to the respective successor state/corporation in which the region falls after bifurcation irrespective of their place of birth or domicile or schooling etc.

(emphasis supplied)

12. There is no dispute about the fact that the respondents were recruited at the regional level and belong to the successor state Corporation in which the region falls.
13. In this view of the matter, following the statutory mandate of Section 82 read with the Agenda Note dated 16.08.2017, the respondents will continue their employment in the same region, which is under the present TSRTC.
14. The High Court has incorrectly relied on Section 77 of the Act and has in fact failed to notice Section 82 and the follow-up action taken thereunder. The High Court also ignored the correct enunciation of the applicable law in the order dated 18.04.2018, whereunder the respondents were directed to report at their parental zones as per the guidelines. As there is no dispute about the applicability of Section 82 even at the bar, the submission of Mr. G.V.R. Choudary that the modalities for allocation have not been decided cannot be accepted in light of the Agenda Note dated 16.08.2017.
15. We have also gone through the prayer in the writ petition of Mr. V.V. Brahma Reddy (respondent no. 1 in Civil Appeal No. 5267/2024), under which there is no challenge to the Agenda Note and its approval. The division bench of the High Court failed to note that the respondents who were on deputation were not absorbed in the deputed posts. In fact, their seniority is continued in their parental zones.
16. The High Court also did not consider the subsequent development when the respondents were in fact repatriated to their parent cadre as a consequence of the order passed by the division bench on 18.04.2018. It is for this reason that this Court had, at the stage of

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admission, stayed the judgment of the division bench on 05.10.2020, which stay is continuing till date. The consequence is that the respondents have returned to this parent cadre in the State of Telangana.

17. For the reasons as indicated hereinabove, the decision of the division bench is unsustainable. We therefore, allow Civil Appeal Nos. 5267, 5268, 5269, 5270, 5271, 5272, 5273, 5274, 5275, 5276, 5277, 5278, 5279, 5280, 5281, 5282, 5283, 5284, 5285, 5286, 5287, 5288, 5289, 5290 and 5291 of 2024 and set aside the judgment and order passed by the High Court in Writ Appeal Nos. 260, 290, 291, 292, 303, 304, 306, 311, 312, 313, 318, 320, 321, 322, 323, 325, 328, 329, 354, 355, 356, 360, 386, 389 and 568 of 2018 dated 21.11.2019 and dismiss the Writ Petition Nos. 25880, 25881, 25886, 25196, 25198, 25201, 25214, 24825, 24849, 24870, 24872, 24874, 24891, 24941, 24987, 25139, 25170, 24605, 24609, 24690, 24697, 24723, 24773, 489 and 6065 of 2017 dated 10.11.2017.
18. There shall be no order as to costs.

Result of the case: Matters disposed of.

[†]Headnotes prepared by: Ankit Gyan