

GOVERNMENT OF ANDHRA PRADESH AND ANR.

A

v.

A.V. VENUGOPALA RAO

NOVEMBER 14, 1994

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

B

SERVICE LAW—Promotion—Legality of provisional seniority list challenged—Pending finalisation of seniority list, interim arrangement made by State Government to avoid administrative hardship—Order of administrative Tribunal upsetting interim arrangement—Whether sustainable—Held, No.

C

Pending finalisation of the seniority list, the Incharge arrangement was made to keep senior most in the provisional list of the respective divisions who were eligible for promotion to the post of Executive Engineer as Incharge and that arrangement was being worked out satisfactorily. The Administrative Tribunal while upsetting the interim arrangement directed that the direction issued by the Tribunal will not preclude the authorities from putting an existing Executive Engineer in additional charge of the post of Executive Engineer or an existing Superintending Engineer similarly wherever required. Any incharge arrangements to the posts of Executive Engineers, Superintending Engineers, or Chief Engineers made after interim order, were revoked and they were divested of that charge. This part of the order of the Tribunal was challenged before this Court.

D

E

Allowing the appeal, this Court

F

HELD : The Tribunal was not justified in upsetting the interim arrangement which had got a rational and reasonable basis to avoid administrative hardship or heart burning to the persons who claimed to the posts of respective Executive Engineers, Superintending Engineers and the Chief Engineers, as the case may be. Under the circumstances, the order of the Tribunal is set aside and the interim incharge arrangement made by the State Government would continue till the disposal of the matter pending before the Tribunal.

G

(474-H, 475-A)

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7828 of 1994.

H

A From the Judgment and Order dated 28.4.94 of the Andhra Pradesh Administrative Tribunal, Hyderabad in O.A. No. 6190 of 1993.

K. Madhava Reddy and G. Prabhakar for the Appellants.

B. Kanta Rao for the Respondent.

B The following Order of the Court was delivered:

Leave granted.

C In the impugned order dated April 28, 1994, the Andhra Pradesh Administrative Tribunal in O.A. No. 6190/93 directed that the direction issued by the Tribunal "will not preclude the authorities from putting an existing Executive Engineer in additional charge of the post of Executive Engineer or an existing Superintending Engineer similarly wherever required. The Committee also will examine the aspect that where there are no controversies, the consideration of promotion of Executive Engineers should be placed before the Tribunal for any further directions. Any

D incharge arrangements to the posts of Executive Engineers, Superintending Engineers or Chief Engineers made after interim order, are revoked and they stand divested of that charge, within one week." This part of the order is now mainly assailed in this appeal. Before issuing of notice to the

E respondent by our proceedings dated July 13, 1994, Shri K. Madhava Reddy, learned senior counsel had stated that pending finalisation of the seniority list, the Incharges arrangement was made to keep senior most in the provisional list of the respective divisions who are eligible for promotion to the post of Executive Engineer as incharge so as to avoid heart burning among the officers and that arrangement is being worked out satisfactorily. The impugned directions would create administrative

F problems. Therefore, when such statement was made we directed the learned counsel to place on record of provisional seniority list and orders of Incharge given to the stated senior most persons in the respective divisions. Accordingly, they have placed on record the provisional seniority list and also order of incharge arrangement from the respective divisions. This position has not been controverted. However, the learned counsel for the

G respondent in the counter affidavit filed on behalf of the respondent has controverted the correctness and legality of the provisional seniority list as such. Since that matter is now pending adjudication in the Tribunal, we direct the Tribunal to look into the matter.

H As to what is done, is an interim arrangement of the Government for smooth functioning of the department, we think that the Tribunal was not

justified in upsetting the interim arrangement which has got a rational and reasonable basis to avoid administrative hardship or heart burning to the persons who claimed to the posts of respective Executive Engineers, Superintending Engineers and the Chief Engineers, as the case may be. Under these circumstances, the above quoted order of the Tribunal is set aside and the interim incharge arrangement made by the State Government would continue till the disposal of O.As pending before the Tribunal. The Tribunal is directed to dispose of the matter as expeditiously as possible preferably within a period of six months from the date of the receipt of this order. The appeal is accordingly allowed. No costs.

A.G.

Appeal allowed.