

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.299-303 OF 2005

B. PRABHAKAR RAO ... A
APPELLANT

VERSUS

GOVERNMENT OF ANDHRA PRADESH & ORS. ... R
RESPONDENTS

WITH

C.A.NO.3373OF 2006 (arising out of SLP(C) No.13043/2006

(CC 6481-6485/2004)

(Government of Andhra Pradesh and others vs. D. Janardhan Reddy etc.etc.)

O R D E R

Delay condoned. Leave granted in SLP filed by the Government of Andhra Pradesh.

In this two batches of appeals, the common order passed by the Division Bench of the Andhra Pradesh High Court in Writ Petition Nos.1435, 1436, 1437, 1438 and 1439 of 2002 is under challenge. The parties will be referred to by their ranks in C.A.Nos.299-303/2005.

The appellant is stated to be the junior of third respondent in the category of Assistant Engineers. By order dated 15.7.1987, third respondent was imposed the punishment of stoppage of two increments. The Andhra

Pradesh

Administrative Tribunal set aside the said punishment by order dated 26.4.1996. By a further order dated 11.6.1996, the Tribunal added the following direction, at the end of

Para 2 of its order dated 26.4.1996 :

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"Consequently, the petitioner be given notional seniority and promotion with effect from the date on which his immediate junior was promoted."

The said order dated 26.4.1996 modified by order dated 11.6.1996 was not challenged by the State Government and therefore attained finality as between the third respondent and the State Government.

The third respondent gave a representation that the appellant, who was his junior, was placed in the panel of Assistant Executive Engineer/Assistant Engineers fit for promotion/appointment as Dy. Chief Engineers (R&B) Zone V as per G.O. dated 2.7.1983 and promoted on 25.7.1983, that he (third respondent) was due for promotion as Dy. Executive Engineer in July 1983 and the department had wrongly deferred his case when preparing the panel dated 2.7.1983.

The State Government accepted the said representation and issued G.O. dated 13.12.1996 including the name of third respondent, in the panel for year 1975-76, of Dy. Executive Engineer(R&B)Zone V and placed him above the appellant who was his immediate junior in the category of Assistant Executive Engineers, and gave all consequential benefits with effect from the date on which the appellant was promoted as Dy. Executive Engineer (R&B).

The appellant challenged the order dated 13.12.1996 in O.A.No.2288/1999

before the Andhra Pradesh Administrative Tribunal. The said application with two

other applications filed by appellant and two applications filed by third respondent

were disposed by the Tribunal by order dated 7.1.2004. The G.O. dated 13.12.1996 was

set aside. The applications were disposed of as indicated in the order.

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The third respondent challenged the said order in Writ Petition Nos.1435

to 1439 of 2004 and a Division Bench of the Andhra Pradesh High Court by order

dated 5.3.2004 allowed the writ petitions and upheld the G.O. dated 13.12.1996. The

said order is challenged by the appellant in these appeals.

During the pendency of these appeals the appellant, B. Prabhakar Rao

retired in October, 2005 as Chief Engineer and the respondent No.3, D. Janardhan

Reddy retired on 30th April, 2006 as Executive Engineer.

Since both the appellant and respondent No.3 have now retired from

service on attaining the age of superannuation and as we find no infirmity in the order

of the High Court we dispose of these appeals without disturbing the decision of the

High Court except the following clarification:

(i) The third respondent shall be given notional seniority and

promotions as per the G.O. dated 13.12.1996 and his pension shall be

fixed or refixed with reference to the promotions and notional pay

fixations. The third respondent will be entitled to monetary benefits

only with reference to the pension.

(ii)The position and service benefits of appellant shall in no way be affected.

.....J.

(H.K. SEMA)

.....J.

(R.V. RAVEENDRAN)

NEW DELHI,

AUGUST 02, 2006.

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ITEM NO.103

COURT NO.7

SECTION XIIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 299-303 OF 2005

B.PRABHAKAR RAO

Appellant (s)

VERSUS

GOVERNMENT OF ANDHRA PRADESH & ORS.

Respondent(s)

(With appln(s) for directions and office report)

With

SLP(C)No...CC 6481-6485/2004

(appln.(s) for c/delay in refiling SLP)

Date: 02/08/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Appellant(s)

Mr. A.K. Sanghi, Adv.

For Respondent(s)

Mr. L. Nageshwar Rao, Sr. Adv.

Mr. Vimal Chandra S. Dave, Adv.

Mrs. Neelam Kalsi, Adv.

Mr. Shailendra Narayan Singh, Adv.

for the State

Mrs.D. Bharathi Reddy ,Adv.

UPON hearing counsel the Court made the following

O R D E R

Delay condoned.

Leave granted.

The appeals are disposed of in terms of the signed
order.

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(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)