

SUPREME COURT OF INDIA

Executive Director TTD

Vs.

D. Nagulu Naidu

C.A.No.14221 of 1996

(K. Ramaswamy and G. B. Pattanaik, JJ.)

07.11.1996

JUDGEMENT

PATTANAİK, J.:-

1. Leave granted.

2. This appeal by Special Leave is directed against the judgment of the High Court of Andhra Pradesh dated 4-7-96 passed in Writ Appeal No. 620 of 1996. By the impugned order the High Court has exercised powers under Art. 215 of the Constitution and directed the contemnor to be present in the Court on 15-7-1996 for receiving appropriate sentence on a conclusion that the contemnors have wilfully not given effect to the order passed in Writ Petition No. 14282 of 1994.

3. The respondent D. Nagulu Naidu was appointed as nominal muster roll electrician in the year 1979 under the appellant on a purely temporary basis. Pursuant to the orders issued by the

Government of Andhra Pradesh dated 19-4-1988 for regularisation of persons working on nominal muster rolls from 1-1-1970 to 31-3-1984, the services of the respondent was regularised by proceedings of the Executive Officer Davasthanam dated 30-10-1990. He was regularised as helper with effect from 19-4-1988. He challenged the order by filing a writ petition contending inter alia that the regularisation should have been from the date of his initial appointment on 16-7-1979. He also contended that he should have been regularised as electrician. The post of electrician was not available under Tirumala Tirupati Devasthanams Employees Services Rules, 1989 which was brought into force on 24-10-1989 and the post of electrician is a promotional post. From the post of helper the next promotion is to Assistant Wireman and from there to Wireman, and from there to Electrician. An Electrician's post is 3 steps above the Helper's post. After the rules came into force the respondent was promoted to the post of Assistant Wireman with effect from 18-6-1992. He filed a Writ Petition bearing No. 14282 of 1994 claiming relief of being entitled to the regular scale of pay attached to the post of Electrician since 12-8-1979 and further contended that the order of regularisation regularising him as Helper is bad in law. The said writ petition was disposed of by learned single Judge by order dated 23-1-1995 with the direction that the respondent be appointed to the post of Electrician from the date on which his juniors were appointed or at least from the date of his extracting the work of Electrician only after the respondent acquires requisite qualification for being appointed as Electrician. Since none of the juniors of the respondent had been appointed or promoted as Electrician the Executive Officer of the Devasthanam intimated the respondent that he is not entitled to be appointed as Electrician. This order of the Executive Officer dated 30-1-1996 was challenged by the respondent which was registered as Writ Petition No. 3641 of 1996 and is pending before a learned single Judge of Andhra Pradesh High Court. In the meantime the Chief Engineer of Devasthanam transferred the respondent from Tirupati to Tirumala office by order dated 17-5-1996. This order of transfer was again challenged by the respondent in the High Court which was registered as Writ Petition No. 10674 of 1996 and an application for interim direction was also filed which was registered as W.P.M.P. No. 12974 of 1996. The learned single Judge did not suspend the order of transfer but directed that the transfer of the respondent will be subject to final decision in the writ petition. This order of learned single Judge dated 7-6-1996 was assailed by filing a writ appeal which was registered as Writ Appeal No. 620 of 1996. In that appeal the Division bench issued a show cause notice to the appellant as to why they should not be suitably dealt with for having not complied with the earlier direction of the High Court. By the impugned order dated 4-7-1996 the High Court having held that the appellants are guilty of contempt and having decided to exercise power under Art. 215 of the Constitution, the appellants have approached this Court.

4. The question for considering under the aforesaid circumstances is whether the High Court was at all justified in exercising power under Art. 215 of the Constitution in the writ appeal which had been filed by the respondents against the order of the learned single Judge dated 7-6-1996. It is apparent that the order of transfer of the respondent from Thirupathy to Thirumala was the subject-matter of challenge in Writ Petition No. 10674 of 1996 and in that writ petition when application for interim suspension of the order of transfer was filed, the learned single Judge did not suspend the order but held that the order of transfer would be subject to final decision of the writ petition. When against that order of respondent had approached the Division Bench the only question which the Division Bench was to consider is whether the learned single Judge was justified in not suspending the order of transfer passed by the Devasthanam Authorities. It is indeed surprising to notice that the Division Bench has exercised powers under Art. 215 of the Constitution on the basis that some earlier order passed in some other proceeding had not been complied with. Article 215 of the Constitution, no

doubt, confers ample power on the High Court to commit for contempt but when the appeal before it was in relation to legality or otherwise of the refusal of the learned single Judge to pass an interim order of suspension of the order of transfer, the question of exercising power of contempt under Art. 215 of the Constitution for the alleged non-compliance, of any earlier direction of the Court does not arise and was not called for. Even otherwise on the facts narrated earlier it is difficult to conceive that the Devasthanam Authorities have wilfully violated any direction / order of the Court. In our considered opinion there was no occasion for the Division Bench of the High Court to invoke the powers under Art. 215 of the Constitution in the facts and circumstances as already stated.

5. We accordingly set aside the impugned order of the Division Bench of the High Court dated 4-7-1996, but in the circumstances there will be no order as to costs.

Order accordingly.