

Government of Andhra Pradesh

Vs

K. Ramachandra Reddy

(Sujata V. Manohar, S. P. Kurdukar, D. P. Wadhwa JJ)

07.04.1998

JUDGMENT

S. P. KURDUKAR J

1. Leave granted in SLP Nos. 524-525 of 1991. These Civil Appeals are filed by the Government of Andhra Pradesh and Anr. challenging the legality and correctness of the orders passed by the Andhra Pradesh Administrative Tribunal at Hyderabad. There does not seem to be any dispute that the respondents herein were appointed on different dates as Food Inspectors under Section 9(1) of Prevention of Food Adulteration Act, 1954 (for short the Act'). By way of an illustration we may reproduce an order bearing No. G.O.Ms. No. 162 (L2) dated 12.3.1985 which reads as under:-

The following notification will be published in an Extraordinary issue of the Andhra Pradesh Gazette dated 15.3.1985.

#### NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 9 of the Prevention of Food Adulteration Act, 1954 (Central Act of 1954), the Governor of Andhra Pradesh hereby appoints (1) the persons specified in Column (2) of the Schedule below to be the Food Inspectors, for the purpose of the said Act, and (2) directs that the persons aforesaid shall exercise the powers within the local areas specified in the corresponding entries in column (4) thereof".

2. The Schedule contains the names of persons and the name of Local Government/Local areas where they were posted. The respondents herein filed separate Representation Petitions bearing Nos.3751//87, 1810/87, 8145//88 and 8084/88 before the Andhra Pradesh Administrative Tribunal. In all these Representation petitions the grievance of the respondents was that although they were appointed as Food Inspectors in terms of the above quoted order yet they were not given the posting orders. They further pleaded that they have made several representations to the authorities and the last communication dated 13.2.1987 received by them was to the effect that inasmuch as the adhoc rules in this behalf were not framed, therefore, their postings could not be made. It is in these circumstances that they challenged the inaction of the appellants and prayed that they be directed to issue posting orders to them.

3. The appellants herein (who were respondents before the Tribunal) in their counter affidavit

denied that the respondents herein have got any right to seek posting orders merely because they have been appointed as Food Inspectors under the Act. They also denied the existence of any such adhoc Rules. It is not disputed that the draft Rules were framed and they were then pending before the Government for its approval. The claim of the respondents herein is devoid of any merit and the Representation Petitions be dismissed.

4. The Andhra Pradesh Administrative Tribunal in a very slipshod manner disposed of the Representation Petition No. 3751 of 1987 as under:

" I see sufficient foundation in the arguments of the learned counsel for the petitioners. In these circumstances there is no alternative for me except to give a direction to the respondents to give a posting to these six petitioners with immediate effect as the denial is baseless and there is exigency in the matter of appointing Food Inspectors as reflected from the counter itself. R.P. is allowed accordingly. No costs".

5. This order and other similar orders passed by the other Benches of the Andhra Pradesh Administrative Tribunal in other Representation Petitions are sought to be challenged in these civil appeals. Since the controversy involved in all these appeals is identical, they are being disposed of by this common judgment.

6. Shri G. Prabhakar, learned counsel appearing for the State of Andhra Pradesh urged that these respondents were junior analysts in the Institute of Preventive Medicine, Public Health Labs and Food (Health) Authority, Hyderabad and some were working in the non-technical cadre. All these respondents are science graduates. At their instance they were sent for training in Food Inspection and Sampling which they have passed. The Government of Andhra Pradesh in exercise of its power under Section 9(1) of the Act appointed these respondents to be the Food Inspectors for the purposes of the said Act. Since they were appointed under the said Act they are not entitled to seek postings as Food Inspectors until the rules in that behalf were approved by the State Government. Learned counsel fairly stated that these draft rules have now been approved by the State government vide its order dated 8.9.1994. He further urged that these respondents were appointed against the local areas mentioned in the orders or their appointments. There are many senior analysts and are eligible candidates in the department who could be considered and appointed to the posts of Food Inspectors. The claims of the respondents as well as the other eligible candidates will be considered in the light of rules which are now approved by the State Government.

7. On perusal of the appointment orders and the Schedule attached, it is clear that these respondents came to be appointed as Food Inspectors under the Act at the places (local bodies) where they were working. Therefore, these appointments were only for the purpose of discharging the duties under the Act. If this be so, the respondents could not be said to have acquired any right to seek their posting orders inasmuch at the time when they were appointed, no adhoc rules were framed. The draft rules were sent to the State Government for its approval and the said approval was received on 8.9.1994. In view of this factual position in our opinion the Tribunal has committed an error while issuing the direction to issue the posting orders on the assumption that the respondents were entitled for getting posting orders on the basis of adhoc rules. Incidentally it may be stated that an identical question arose before the said Tribunal in Representation Petition No. 810/87 ( M. Lakshmi Narayana Vs. The Director, Institute of Preventive Medicine, Public Health Laboratories, Narayanaguda, Hyderabad and Anr.) and the Tribunal vide its reasoned and detailed order dated July 27, 1988 dismissed the said Representation Petition.

8. In the result the appeals are allowed. The orders passed by the Andhra Pradesh Administrative Tribunal in R.P. Nos. 3751 of 1987 dated 10.4.1989, 8145 of 1988 and 8084 of 1988 dated 17.4.1989 and 1810 of 1987 dated 29.9.1989 are set aside and consequently all Representation Petitions to stand rejected. In the circumstances there shall be no order as to costs.