

**IN THE HIGH COURT FOR THE STATE OF TELANGANA,
HYDERABAD**

*** * ***

i. WRIT PETITION Nos.31405 and 31411 of 2024

Between:

The State of Telangana

Petitioner

Versus

Sri Ratnaker Jauhari IFS and others

Respondents

JUDGMENT PRONOUNCED ON : 25.11.2024

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : **Yes**
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : **Yes**
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : **Yes**

ABHINAND KUMAR SHAVILI, J

LAXMI NARAYANA ALISHETTY, J

1. (2011) 12 SCC 137
2. (1971) 2 SCC 630

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

WRIT PETITION Nos.31405 AND 31411 OF 2024

COMMON ORDER: *(Per the Hon'ble Sri Justice Abhinand Kumar Shavili)*

Both these Writ Petitions are being disposed of by way of this common order since the issue raised in both these Writ Petitions is one and the same.

2. W.P.No.31405 of 2024 is filed by the State against the order, dated 04.10.2024 passed in O.A.No.1556 of 2024 and W.P.No.31411 of 2024 is also filed by the State against the order, dated 16.03.2022 passed in O.A.No.215 of 2016, by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, 'the Tribunal'). In both the cases, contesting respondent is one and the same and the issue pertains to allotment of the contesting respondent (Indian Forest Service (IFS) Officer) to the State of Telangana and the State of Andhra Pradesh is also involved.

3. Heard the learned Special Government Pleader, appearing for petitioner-State and Mr. R. Anurag, learned

counsel representing learned Deputy Solicitor General of India appearing for respondent Nos.1 and 2; Sri G. Vidya Sagar, learned Senior Counsel representing Sri M. Avinash Reddy, learned counsel appearing for respondent No.3 and Sri A. Raghu Ram, learned Assistant Government Pleader for the State of Andhra Pradesh, appearing for respondent No.4.

4. For the sake of convenience, the facts in W.P.No.31405 of 2024 are hereunder discussed.

5. Learned Special Government Pleader appearing for the petitioner-State had contended that the contesting respondent is an Indian Forest Service (IFS) Officer from the 1994 batch, who served as Chief Conservator of Forest in the erstwhile composite State of Andhra Pradesh. Consequent upon the bifurcation of the State of Andhra Pradesh into the State of Telangana and the State of Andhra Pradesh, the contesting respondent was allotted to State of Andhra Pradesh by respondent No.1 on 05.03.2015, as per the guidelines framed by the Pratyush Sinha Committee. Challenging his allotment to the State of Andhra Pradesh and guidelines framed for allocation, the

contesting respondent has filed O.A.No.215 of 2016 before the Tribunal and the Tribunal was pleased to allow the O.A. by following its earlier order, dated 29.03.2016 passed in O.A.No.1241 of 2014 *vide* order, dated 16.03.2022. Learned Special Government Pleader for the petitioner had further contended that the Tribunal was pleased to set aside the allocation guidelines in O.A.No.1241 of 2014, dated 29.03.2016 and directed the Union of India to allot the contesting respondent to the State of Telangana. A perusal of the order passed by the Tribunal in O.A.No.215 of 2016, makes it clear that the said O.A. was allowed only on the ground that its earlier order i.e., O.A.No.1241 of 2014 was allowed *vide* order, dated 29.03.2016, wherein, the guidelines of allocation of Officers between the two states were held to be bad.

6. Aggrieved by the order, dated 29.03.2016 passed by the Tribunal in O.A.No.1241 of 2014, the Union of India has filed W.P.No.4938 of 2017 before this Court and the Division Bench of this Court *vide* order, dated 10.01.2023 was pleased to set aside the order, dated 29.03.2016 passed in O.A.No.1241 of 2014 and upheld the guidelines

of allocation. When the orders passed in O.A.No.1241 of 2014 were set aside, on the same analogy, the order, dated 16.03.2022 passed by the Tribunal in O.A.No.215 of 2016 is also liable to be set aside. Learned Special Government Pleader further contended that the Tribunal cannot allocate the Officers to the respective states, it is only the Union of India, which has to allocate the Officers to the respective States. Therefore, the Tribunal was not justified in allowing the O.A. in favour of the contesting respondent. Moreover, the Tribunal has allowed O.A.No.215 of 2016 by relying on its earlier orders in O.A.No.1241 of 2014 and the orders passed in O.A.No.1241 of 2014 were set aside by the Division Bench of this Court in W.P.No.4938 of 2017 *vide* order, dated 10.01.2023. However, the Union of India has not challenged the Tribunal's order in the present case i.e., O.A.No.215 of 2016.

7. Learned Special Government Pleader appearing for the petitioner-State had further contended that the Union of India has re-allocated the contesting respondent to the State of Telangana *vide* proceedings, dated 26.07.2023 and subsequent proceedings, dated 06.09.2023. Based upon

re-allocation to the State of Telangana by the Union of India, the contesting respondent has approached the Tribunal by filing O.A.No.1556 of 2024 and on the first day of admission itself, the said O.A. was disposed of by directing the petitioner-State to issue posting orders and also to pay salary to the contesting respondent from 29.04.2024 till the date of posting order, without appreciating any of the contentions raised by the petitioners.

8. Learned Special Government Pleader had further contended that the Tribunal has allowed O.A.No.1556 of 2024 in favour of the contesting respondent, without giving opportunity to file detailed counter, thereby denying the opportunity to the petitioners.

9. Learned Special Government Pleader appearing for the petitioner-State has relied upon the judgment of the Honourable Supreme Court in ***The Registrar General, High Court of Judicature at Madras v. R. Perachi and others***¹, wherein, the Honourable Supreme Court has held that a Division Bench cannot take a different view from

¹ (2011) 12 SCC 137

that of a Co-ordinate bench and also relied upon the judgment of the Honourable Supreme Court in ***Sri Venkateswara Rice, Ginning and Groundnut Oil Mill Contractors v. State of Andhra Pradesh and others***², wherein, the Honourable Supreme Court has held that two Division Benches have taken two different views and the subsequent Division Bench while disagreeing with the earlier Division Bench could not have taken a different view. Since, the issue raised in the present Writ Petitions is squarely covered by the order passed by the Division Bench of this Court in W.P.No.4938 of 2017, dated 10.01.2023, no different view can be taken by this Bench. When the guidelines were upheld by the Division Bench in W.P.No.4938 of 2017, dated 10.01.2023 and the allotment made in that case was held to be valid, the same principle applies to the present case. The Tribunal has allowed the O.A. preferred by the contesting respondent on the ground that the issue is squarely covered by the order, dated 29.03.2016 passed in O.A.No.1241 of 2014 by the Tribunal and the said orders were set aside by the Division Bench. Therefore, the Writ Petitions are bound to be allowed, as

² (1971) 2 SCC 630

the allocation order was already upheld and the allotment made in respect of one particular IFS Officer was held to be valid, no different view can be taken in the instant case. By relying upon the orders in W.P.No.4938 of 2017, dated 10.01.2023, the Courts cannot interfere with the original allotment of the contesting respondent. Consequently, the question of re-allocating the contesting respondent to the State of Telangana would not arise. Therefore, appropriate orders be passed in the Writ Petitions by setting aside the order, dated 16.03.2022 passed in O.A.No.215 of 2016 and the order, dated 04.10.2024 passed in O.A.No.1556 of 2024 by the Tribunal are liable to be set aside and allow the Writ Petitions.

10. On the other hand, learned Deputy Solicitor General of India appearing for the Union of India had contended that the petitioner-State has submitted a representation on 18.08.2023 to pass appropriate orders pursuant to the order, dated 16.03.2022 passed in O.A.No.215 of 2016 by the Tribunal. Acting on this representation, the case of the contesting respondent was examined and he was re-allocated to the State of Telangana *vide* proceedings, dated

06.09.2023 and subsequent proceedings, dated 26.07.2023. When once the Union of India has allotted the contesting respondent to the State of Telangana, the petitioner-State cannot have any objection for giving posting orders to the contesting respondent. The contesting respondent, who was on a deputation with Indian Council of Forestry Research and Education (ICFRE) up to 12.04.2024, was relieved from ICFRE and only after getting relieved from his deputation, he has reported to the State of Telangana on 29.04.2024.

11. He further contended that the case of the contesting respondent was re-examined based upon the representation submitted by the petitioner only, the Union of India has acted upon and issued revised allocation orders to the contesting respondent. Therefore, the issue where the guidelines were upheld in W.P.No.4138 of 2017, dated 10.01.2023 has no application in the present case. The Union of India has independently applied its mind and taken a decision to re-allocate the contesting respondent to the State of Telangana. This re-allocation will commence only from the date of re-allocation to the State of Telangana

i.e., *vide* proceedings, dated 26.07.2023 and subsequent proceedings, dated 06.09.2023. Accordingly, the allocation of the contesting respondent would effectively take place, the moment, contesting respondent reports to duty to the State of Telangana. Therefore, there are no merits in the Writ Petitions and the same are liable to be dismissed.

12. Learned Government Pleader for Andhra Pradesh appearing for respondent No.4 had contended that he has no objection in the present case, whether the contesting respondent is allotted either to the State of Telangana or to the State of Andhra Pradesh. Therefore, appropriate orders be passed to that effect.

13. Learned Senior Counsel appearing for the contesting respondent had contended that the orders, dated 16.03.2022 passed in O.A.No.215 of 2016 have been implemented and revised allocation orders were passed on 26.07.2023 and 06.09.2023. As long as revised allocation orders were passed by the Union of India, the question of setting aside the orders passed by the Tribunal would not arise. Learned Senior Counsel further contended that the petitioner-State was a party to the order, dated 16.03.2022

passed in O.A.No.215 of 2016, as respondent No.3 before the Tribunal and they have not chosen to challenge the orders passed by the Tribunal. The petitioner-State is resisting to give posting orders to the contesting respondent only after the revised allocation orders were passed by the Union of India.

14. Learned Senior Counsel had further contended that the contesting respondent has submitted a representation to the State of Telangana on 01.07.2023 to give posting orders pursuant to the order, dated 16.03.2022 passed in O.A.No.215 of 2016. However, the State has not chosen to give any posting orders and when no orders were passed on the said representation, the contesting respondent has approached the Tribunal by filing O.A.No.681 of 2024 and the Tribunal *vide* order, dated 22.07.2024 was pleased to dispose of the said O.A by directing the petitioner-State to dispose of the representation and pass appropriate orders. In spite of the fact that the Union of India has issued re-allocation orders, allotting the contesting respondent to the State of Telangana, the State has rejected the said representation *vide* memo, dated 09.09.2024. Learned

Senior Counsel had further contended that while disposing of the said representation, the petitioner-State has informed that it was awaiting final orders from the Department of Personnel And Training, New Delhi, (DoPT) regarding re-consideration of the contesting respondent's allocation. However, re-allocation orders were passed by the Ministry of Environment and Forest and Climate Change, which is a cadre controlling authority and DoPT has no role in the allocation of IFS Officers.

15. Learned Senior Counsel had further contended that aggrieved by the memo, dated 09.09.2024 passed by the petitioner-State, the contesting respondent has approached the Tribunal by filing O.A.No.1556 of 2024 and the Tribunal was pleased to dispose of the O.A. *vide* order, dated 04.10.2024, holding that the earlier order, dated 16.03.2022 passed by the Tribunal in O.A.No.215 of 2016 had attained finality. Therefore, the Tribunal was justified in disposing of O.A.No.1556 of 2024 *vide* order, dated 04.10.2024 and rightly directed the petitioner-State to give posting orders besides directing to pay salary from

29.04.2024. Therefore, there are no merits in the Writ Petitions and the same are liable to be dismissed.

16. This Court, having considered the rival submissions made by the parties, is of the view that no doubt, the Tribunal has allowed O.A.No.215 of 2016 *vide* order, dated 16.03.2022 by relying on the order, dated 29.03.2016 passed by the Tribunal in O.A.No.1241 of 2014, and the orders of the Tribunal in O.A.No.1241 of 2014 were subsequently set aside by the Division Bench of this Court in W.P.No.4938 of 2017 *vide* order, dated 10.01.2023, wherein the guidelines framed for allocation was upheld and the earlier allocation made by the Union of India were held to be valid.

17. However, in the present case, much water has flown after allowing O.A.No.215 of 2016, dated 16.03.2022 by the Tribunal, wherein the petitioner-State has submitted the representation to the Union of India to pass appropriate orders in case of the contesting respondent on 18.08.2023. Based on the representation, dated 18.08.2023, the Union of India, has re-examined the case of the contesting respondent and re-allocated the contesting respondent to

the State of Telangana *vide* proceedings, dated 26.07.2023 and 06.09.2023. If the petitioner-State, which was a party respondent in O.A.No.215 of 2016, had been aggrieved, then it could have challenged the orders of the Tribunal, before the Union of India has examined the case of the contesting respondent. Since the Union of India after detailed examination has already decided to re-allocate the contesting respondent to the State of Telangana, the question of setting aside those re-allocation orders would not arise.

18. As far as contention of the learned counsel for the petitioner-State in respect of the judgment of the Honourable Supreme Court in ***The Registrar General, High Court of Judicature at Madras*** case (1 supra) and ***Sri Venkateswara Rice, Ginning and Groundnut Oil Mill Contractors v. State of Andhra Pradesh and others*** case (2 supra) is concerned, we are not taking a different view from the one already taken by the Division Bench of this Court in W.P.No.4938 of 2017, dated 10.01.2023. The issue whether the guidelines of allocation are valid or not is not currently under consideration as the

Union of India has re-examined the case of the contesting respondent and allotted the contesting respondent to the State of Telangana *vide* proceedings, dated 06.09.2023, based on the petitioner-State's, recommendation made on 18.08.2023. Therefore, this Court is of the view that the order, dated 16.03.2022 passed by the Tribunal in O.A.No.215 of 2016 may be erroneous because it has relied upon the order, dated 29.03.2016 passed in O.A.No.1241 of 2014 and the said O.A. orders were set aside by the Division Bench of this Court in W.P.No.4938 of 2017, dated 10.01.2023, but much water has flown in the present case and the Union of India has allotted the contesting respondent to the State of Telangana *vide* proceedings, dated 26.07.2023 and 06.09.2023. The contesting respondent was also relieved from his deputation duties with the ICFRE on 23.04.2024 and reported to the State of Telangana on 29.04.2024, which would mean that the contesting respondent remained without any posting orders from April, 2024 till date. Therefore, the Tribunal has rightly disposed of the O.A.No.1556 of 2024 *vide* order, dated 04.10.2024 and directed the petitioner-State to give

posting orders and pay salary to the contesting respondent from 29.04.2024.

19. This Court has also noticed from the perusal of the record that O.A.No.215 of 2016 was allowed by the Tribunal on 16.03.2022 by following its earlier order of O.A.No.1241 of 2014 and the Division Bench of this Court was pleased to set aside the order, dated 29.03.2016 passed by the Tribunal in O.A.No.1241 of 2014 on 10.01.2023, which would mean that the Tribunal was justified in allowing O.A.No.215 of 2016 thinking that its earlier order, dated 29.03.2016 passed in O.A.No.1241 of 2014 were held to be valid, as no interim directions were issued by this Court in W.P.No.4938 of 2017 till it was allowed on 10.01.2023.

20. If the petitioner-State is aggrieved by the order, dated 16.03.2022 passed by the Tribunal in O.A.No.215 of 2016, they could have approached this Court, after allowing of W.P.No.4938 of 2017, dated 10.01.2023, by the Division Bench of this Court. The petitioner-State has not moved its little finger against the order, dated 16.03.2023 passed by the Tribunal in O.A.No.215 of 2016. It was only after the

Tribunal disposed of the cases preferred by the contesting respondent on 04.10.2024 in O.S.No.1556 of 2024, the petitioner-State filed the present Writ Petitions. Therefore, this Court is not inclined to interfere with the orders of the Tribunal.

21. Accordingly, both these Writ Petitions are dismissed. There shall be no order as to costs.

As a sequel, miscellaneous applications, if any, pending shall stand closed.

ABHINAND KUMAR SHAVILI, J

LAXMI NARAYANA ALISHETTY, J

Date: 25.11.2024.

Note :- Mark the L.R. copy.

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AKS,J & LNA,J
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**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY**

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