

THE HON'BLE SRI JUSTICE K.SURE SH REDDY

WRIT PETITION No. 152 OF 2023

ORDER:

Challenging Memo No. 1819946/Courts.A/A1/2022 dated 28-12-2022, whereby the earlier order to continue the petitioner as Special Public Prosecutor to conduct prosecution in POCSO Court, Ongole, till 31-03-2024 to complete three years period is rescinded, and G.O.Rt.No. 1238, Home (Courts.A) Department, dated 28-12-2022, whereby respondent No. 1 appointed respondent No. 5 in the place of the petitioner to conduct cases in POCSO Court, Ongole, with effect from 02-01-2023 for a period of three years, the petitioner filed the present writ petition.

2. Heard Sri P.Sri Ram, learned counsel appearing for the petitioner; learned Government Pleader for Home appearing for respondent Nos. 1, 3 and 4; learned Government Pleader for Legal and Legislative Affairs appearing for respondent No. 2; and Sri S.Rama Lakshma Reddy, learned counsel appearing for respondent No. 5.

3. Brief facts emanated from the affidavit and the counter affidavits are as follows:

Respondent No. 1 appointed the petitioner as Special Public Prosecutor under Section 32 (1) of the Protection of Children from Sexual Offences Act, 2012, for conducting cases in POCSO Court, Ongole, *vide* G.O.Rt.No. 1104, Home (Courts.A) Department, dated 31-12-2019 by terminating the services of former Special Public Prosecutor by name Smt. M.Gargeyi *vide* G.O.Rt.No. 1100, Home (Courts.A) Department, dated 31-12-2019. Challenging the above said two Government Orders, Smt. M.Gargeyi filed W.P.Nos. 272 and 285 of 2020 before this Court. This Court passed an *interim* order of *status quo*. On the basis of the said *status quo* order, Smt. M.Gargeyi had been continued to conduct prosecution in POCSO Court, Ongole. Though the petitioner was appointed as far back as on 31-12-2019, he could not conduct prosecution in view of the *status quo* order passed by this Court. Finally, this Court vacated the *status quo* by order dated 24-03-2021. It is only thereafter, the petitioner was permitted to conduct prosecution from 01-04-2021. Thereafter, respondent No. 1 issued

Memo No. 1848181/Courts.A/A1/2022 dated 01-12-2022 permitting to continue the services of the petitioner as Special Public Prosecutor till 31-03-2024 as the latter could not be able to take charge till 01-04-2021 in view of the *interim* order passed by this Court. While such was the position, respondent No. 1 issued the impugned memo dated 28-12-2022 rescinding the earlier Memo No. 1848181/Courts.A/A1/2022 dated 01-12-2022, whereunder permission was accorded to continue the services of the petitioner as Special Public Prosecutor till 31-03-2024, on administrative reasons. On the very same day, respondent No. 1 also issued the impugned G.O.Rt.No. 1238, Home (Courts.A) Department, dated 28-12-2022 appointing respondent No. 5 as Special Public Prosecutor.

4. Learned counsel for the petitioner strenuously contends that the services of the petitioner have been governed by the Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000 (for short, 'Service Instructions'), and that as per Instruction No. 8 of the Service Instructions, all the appointments are for a period of three years.

5. As already pointed out, Respondent No. 1 appointed the petitioner as Special Public Prosecutor for conducting cases in POCSO Court, Ongole, *vide* G.O.Rt.No. 1104, Home (Courts.A) Department, dated 31-12-2019. Though the petitioner was appointed as far back as on 31-12-2019, he could not take charge till 01-04-2021 in view of the *status quo* order passed by this Court in W.P.Nos. 272 and 285 of 2020. Consequently, respondent No. 1 issued Memo No. 1848181/Courts.A/A1/2022 dated 01-12-2022 permitting to continue the services of the petitioner as Special Public Prosecutor till 31-03-2024. Surprisingly, inconsonance with the Service Instructions, the term of the petitioner has been reduced by the impugned memo without assigning any reason whatsoever.

6. At this stage, learned counsel for the petitioner submits that if at all respondent No. 1 wants to reduce the term of the petitioner, he can do so only by following Instruction No. 9 of the Service Instructions.

7. This Court perused the entire material on record. Instruction No. 8 of the Service Instructions deals with term of Law Officers

and according to it, Law Officers shall ordinarily be appointed for a term of three years. As seen from the record, though the petitioner was appointed on 31-12-2019, he was not permitted to take charge till 01-04-2021 in view of the *interim* order passed by this Court in W.P.Nos. 272 and 285 of 2020. It is only for that reason, Government issued memo dated 01-12-2022 permitting to continue the services of the petitioner till 31-03-2024 *i.e.* for a period of three years. The impugned memo issued by respondent No. 1 is contrary to Instruction No. 8 of the Service Instructions. If at all respondent No. 1 wants to reduce the term of the petitioner, he can only take action in accordance with Instruction No. 9 of the Service Instructions.

8. In that view of the matter, Memo No. 1819946/Courts.A/A1/2022 dated 28-12-2022 and G.O.Rt.No. 1238, Home (Courts.A) Department, dated 28-12-2022 issued by respondent No. 1 are hereby set aside. It is, however, made clear that if respondent No. 1 wants to reduce the term of the petitioner, he can proceed against the petitioner only by following Instruction No. 9 of the Service Instructions.

9. The writ petition is allowed. Pending miscellaneous applications, if any, shall stand disposed of in consequence. No costs.

Date: 24-03-2023,

JUSTICE K.SURESH REDDY

Note:

Issue C.C. in one (1) week.

B/O

JSK

THE HON'BLE SRI JUSTICE K.SURESH REDDY

WRIT PETITIION No. 152 OF 2023

DATE: 24TH MARCH, 2023