

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.30817 of 2015

Order: (per V.Ramasubramanian, J.)

The State has come up with the present writ petition challenging an order of the Andhra Pradesh Administrative Tribunal, Hyderabad, directing the petitioners to grant notional promotion to the 1st respondent herein, on par with his junior one Mr. K.Raghu in the categories of Inspector of Police and Deputy Superintendent of Police.

2. Heard the learned Government Pleader for Services-I (Andhra Pradesh) and Sri K.Suresh Reddy, learned Senior Counsel for the 1st respondent.

3. This is actually the 2nd round of litigation for the 1st respondent. The 1st respondent was directly recruited as Sub Inspector of Police in the 1989 batch. In the *inter se* Seniority List issued on 09-11-1994, the 1st respondent's name was admittedly shown above that of one K.Raghu.

4. While preparing a 'C' List of Sub Inspectors fit for promotion as Inspectors for the year 1998, the name of the 1st respondent was omitted to be included.

5. Therefore, the 1st respondent filed an application in O.A.No.5561 of 2010 on the file of the Andhra Pradesh Administrative Tribunal. In the reply filed by the department, the department cited only one reason, namely, that the 1st respondent was under suspension from 28-3-1992 to

06-02-1995, pending a criminal case and disciplinary proceedings. The criminal case ended in acquittal and departmental proceedings were dropped on 23-10-2000.

6. Since the only plea raised by the Government before the Tribunal in O.A.No.5561 of 2010 was the criminal case and disciplinary proceedings indicated above, the Tribunal allowed O.A.No.5561 of 2010, holding that after the acquittal in the criminal case and after the dropping of proceedings in the departmental enquiry, both cannot stand in the way of the 1st respondent getting promotion. The operative portion of the order of the Tribunal dated 04-12-2012 passed in O.A.No.5561 of 2010 reads as follows:

“8. For the reasons stated under Point No.(ii), this OA., is allowed directing the respondents to grant notional date of promotion to the applicant on par with his junior Sri K.Raghu in the categories of Inspector of Police and Deputy Superintendent of Police and grant all consequential benefits to him. Necessary orders shall be passed within a period of six weeks from the date of receipt of a copy of this order.”

7. Though what the Tribunal issued was a positive direction to the Government to grant promotion to the 1st respondent, the Deputy Inspector General of Police considered the said order to be an order merely directing a review of the case of the 1st respondent. Under the said wrong impression, the Deputy Inspector General of Police passed an order dated 02-02-2013 rejecting the request of the

1st respondent for notional promotion with effect from the date on which his junior K.Raghu got promoted.

8. Aggrieved by the said order dated 02-02-2013, the 1st respondent filed an application in O.A.No.4894 of 2013. The same having been allowed by the Tribunal on the basis of its previous order, the Government has come up with the present writ petition.

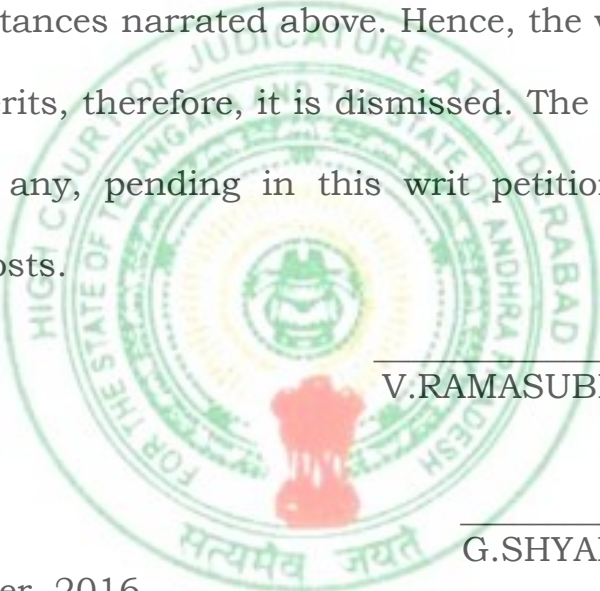
9. The main stand taken by the Government is that from the year 1996-97 to 2001-02, there were adverse remarks touching the integrity of the 1st respondent and that though the adverse remarks related to the year 1992, they would be in force for a period of 6 years, on account of the instructions contained in the Police Manual.

10. The Annual Confidential Report (ACR) of the 1st respondent was produced before us. The ACR relating to the period up to 31-3-1992 shows that the adverse remarks which are now taken advantage of by the department, related to the very criminal case in Crime No.6 of 1992. Once the criminal case ended in acquittal and once the departmental proceedings initiated on the foundation of the very same criminal case were also dropped without further action, even the adverse remarks passed on the basis of the same event should go.

11. It is important to note that the question of adverse remarks was not even raised before the Tribunal by the Government in their reply to O.A.No.5561 of 2010. It has

come as bolt out of the blue, only when the order dated 02-02-2013 was passed, pursuant to the directions issued by the Tribunal in O.A.No.5561 of 2010.

12. Moreover, the direction of the Tribunal issued in O.A.No.5561 of 2010 was positive in nature. It did not give any leverage for the Government to have a rethink of the matter. By an executive order, the DIG of Police cannot annul the effect of the order of the Tribunal. Therefore, the Tribunal was right in allowing the application especially in the facts and circumstances narrated above. Hence, the writ petition is devoid of merits, therefore, it is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.



V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

16th November, 2016.
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AND
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Writ Petition No.30817 of 2015
(per VRS, J.)



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