

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.492 of 2004

Date: 03.08.2017

Between :

P. Ravi

... Petitioner

And

The Director General &
Inspector General of Police,
Andhra Pradesh, Saifabad,
Hyderabad and others.

... Respondents

COUNSEL FOR THE PETITIONER : Mr. M. Srikanth

COUNSEL FOR THE RESPONDENTS: G.P. for Services-I

THE COURT MADE THE FOLLOWING:

ORDER : (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed by the applicant in O.A.No.6788 of 1996 on the file of the A.P. Administrative Tribunal, Hyderabad (for brevity "the Tribunal"), whereby it has dismissed the said O.A. filed by him for declaring the proceedings bearing C.No.397/A/94, dated 04.04.1996, issued by the respondent No.2, refusing to reinstate the petitioner to the post of Sub-Inspector of Police, as arbitrary and illegal.

2. The petitioner was appointed as a Police Constable in the year 1977. He was promoted as Head Constable in the year 1984 and further promoted as Sub-Inspector on out of seniority basis in the year 1988. Due to health reasons, the petitioner was on medical leave from 08.09.1991 to 21.12.1992. When he reported to duty after recovering from the ailment, he was assigned the duties of Head Constable. As the petitioner has later come to know that during his leave period, he was reverted as Head Constable, he filed O.A.No.566 of 1994 for declaring the action of the respondents in not continuing him as Sub-Inspector of Police as arbitrary and illegal. The Tribunal disposed of batch of identical cases vide judgment dated 19.04.1994 in O.A.No.5880 of 1992 and batch, including O.A.No.566 of 1994, following its earlier judgment dated 15.04.1994 in O.A.No.5800 of 1992 and batch, with certain directions. The

directions contained in para-6 are relevant for the purpose of the present case, which are as follows:

“6. No Head Constable working as OS SI will be replaced by another temporarily appointed Head Constable as OS SI. For effecting reversion of OS Sis for want of vacancies due to regular candidates being appointed or other valid grounds, the reversion of OS Sis will be in reverse order of seniority of Head Constables (in District-wise Seniority) among those who are already working as OS Sis by the date of the interim order viz., 09.02.1993 which is adopted by the Director General of Police in his Memo dated 25.02.1992. The Government will immediately take steps for making regular appointments to the post of Sub-Inspector of Police in accordance with the rules both by direct recruitment and by promotion. This should be initiated within three months from the date of receipt of this order. Any Head Constable, who is continued as OS SI because of any interim order of the High Court and contrary to the conclusions in this judgment will be continued till appropriate orders by the Court.”

3. Following the said order, the petitioner made a representation dated 26.10.1995 for restoring him to the post of Sub-Inspector. This representation was rejected by Memo bearing C.No.397/A/94, dated 04.04.1996, of the 2nd respondent. We find it useful to reproduce the contents of this Memo, which read as under:

“H.C.1019 P. Ravi of East Godavari District is informed that he was already reverted as H.C. with effect from 17.12.1991. Therefore, he cannot be continued as O/S SI, as the cut off date was 09.02.1991 as per the A.P. Administrative Tribunal orders, dated 15.04.1994 in O.A.No.5800 of 1992 and batch cases.

Hence, his request is rejected.”

4. Challenging the said Memo, the petitioner has filed O.A.No.6788 of 1996, which was dismissed by the Tribunal by the impugned order.

5. A perusal of the impugned order passed by the Tribunal shows that it has not taken into consideration the effect of the

relief granted to the petitioner vide judgment dated 19.04.1994 in O.A.No.5880 of 1992 and batch. The principle followed by the Tribunal in the said judgment, as laid down in the judgment dated 15.04.1994 in O.A.No.5800 of 1992 and batch, is that, when Sub-Inspectors promoted on out of seniority basis are required to be reverted, reverse seniority needs to be followed, which means that the principle of '*last come first go*' must be followed. Both respondent No.2 as well as the Tribunal, while disposing of O.A.No.6788 of 1996, have not kept this principle in mind. Indeed, the petitioner has specifically pleaded before the Tribunal in para-6(e) of O.A.No.6788 of 1996 that Sri S.M. Ali and Sri P.S.N. Raju etc., who are far juniors to him as Head Constables are continued as Sub-Inspectors. This specific averment has not been controverted by the respondents either before the Tribunal or before this Court. When the juniors to the petitioner were continued as Sub-Inspectors, non-restoration of the petitioner to the post of Sub-Inspector is in flagrant violation of the judgment dated 19.04.1994 in O.A.No.5880 of 1992 and batch passed in favour of the petitioner. Instead of considering this aspect, which is the only relevant one for considering the petitioner's case, respondent No.2 has referred to a cut off date as 09.02.1991, purportedly stipulated by the Tribunal in O.A.No.6890 of 1992 and batch cases. The petitioner is concerned with the order dated

19.04.1994 in O.A.No.5880 of 1992 and batch, which order does not stipulate any such cut off date.

6. On the analysis as above, we are of the opinion that non-restoration of the petitioner to the post of Sub-Inspector on his resuming to the duty after expiry of the period of his medical leave on 22.12.1992 is contrary to the order dated 19.04.1994 in O.A.No.5880 of 1992 and batch. At the hearing, it has come out that the petitioner has already retired from service on reaching the age of superannuation. Therefore, respondent No.2 is directed to reconsider the case of the petitioner and notionally restore him to the post of Sub-Inspector with effect from 22.12.1992 and pay him all monetary benefits attached to the post of Sub-Inspector till the date of his retirement.

7. Accordingly, the writ petition is allowed. As a sequel to the allowing of the writ petition, WPMP.No.667 of 2004 shall stand closed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

03.08.2017.
Msr

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