

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT APPEAL No. 41 OF 2017

JUDGMENT: (per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Smt. A. Deepthi, learned counsel appearing on behalf of the appellant, Sri K. Pramodh, learned counsel for the respondent – writ petitioner, and the learned Government Pleader for Services (Telangana).

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WPMP.No.123 of 2017 in W.P.No.117 of 2017 dated 03.01.2017. The relief sought for by the respondent – writ petitioner, in WPMP.No.123 of 2017 in W.P.No.117 of 2017, was to direct respondent Nos.1 to 3 to revise the seniority list of Inspectors of Police (Civil) issued vide Memo dated 13.12.2016, duly taking into consideration the striking down of the provisions of Rule 5(F) of the A.P. Police Service Rules issued under G.O.Ms.No.2437 dated 08.11.1996, pending disposal of the writ petition.

In the order under appeal, the learned Single Judge noted that, since the final seniority list was notified on 13.12.2016 even before the rectified provisional seniority list was communicated to the petitioner, there cannot be any promotion on the basis of such final seniority list dated 13.12.2016, which has been prepared in gross violation of principles of natural justice. The final seniority list dated 13.12.2016 was, therefore, suspended for a period of eight weeks.

Smt. A. Deepthi, learned counsel for the appellant (4th respondent in the writ petition), would submit that, by the time the Tribunal struck down Rule 5(F) of the A.P. Police Service Rules issued under G.O.Ms.No.2437 dated 08.11.1996, the said Rule had itself been superceded; what the Tribunal had struck down was a non-existent Rule; while the provisional seniority list was put up on the website on 21.11.2016, several of the respondent – writ petitioner’s colleagues had filed their objections; the Government had considered their objections, and had finalized the seniority list on 13.12.2016; and, by the interim order, the learned Single Judge has granted the petitioner an interim relief which they had not even sought for.

Sri K. Pramodh, learned counsel for the respondent – writ petitioner, would contend that, while the provisional seniority list dated 21.11.2016 was finalized and the final seniority list was notified on 13.12.2016, the petitioner was intimated of the provisional seniority list having been prepared only vide proceedings dated 27.12.2016; and, consequently, the petitioner has been deprived of his right to file objections to the final seniority list.

While the rival submissions, on the validity of the final seniority list dated 13.12.2016, necessitate examination in the writ petition, it cannot be lost sight of that, even by way of interlocutory relief, the petitioner had only sought a direction to the respondents to revise the seniority list of Inspectors of Police issued vide Memo dated 13.12.2016, and had not sought suspension of the entire seniority list. On the short ground, that the interim relief granted travels beyond the interim relief sought for, the order under appeal is set aside, and WPMP.No.123 of 2017 is restored to file.

The appellant and the official respondents shall file their counter affidavits within ten days from today. It is open to the respondent – writ petitioner, any time after ten days, to request the learned Single Judge to take up the writ petition for admission, and for grant of interim relief.

The writ appeal is disposed of accordingly.

Miscellaneous petitions, if any, shall also stand disposed of. No costs.

Date: 18.01.2017
ES



RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J