

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.117 OF 2017

ORDER:

The petitioner was initially recruited as Sub Inspector of Police (Civil) in 1985 by the erstwhile Andhra Pradesh Public Service Commission (APPSC). He was allotted to the Hyderabad City Police and started working with effect from 12.09.1985, and later on he was promoted as Inspector of Police, Deputy Superintendent of Police (Civil), Additional Superintendent of Police and Superintendent of Police (Non-cadre. The petitioner has been working as Superintendent of Police (Non-cadre) from 01.07.2013.

Rule 5-F of the Andhra Pradesh Police Service Rules issued in G.O.Ms.No.2437, Home Department, dated 08.11.1966 provided that no Sub Inspector of Police (Category I, Class I of A.P.Police Subordinate Service) shall be eligible for appointment as Inspector of Police, Category IV by transfer, unless he has put in a minimum period of service as specified in the Table. The Table indicated that the Direct Recruit Sub Inspector shall complete six years of service, whereas promotee Sub Inspector of Police shall complete four years of service in order to be eligible for promotion by transfer as Inspector of Police under Category IV. The said Rules were repealed by G.O.Ms.No.137, Home Department, dated 01.06.1998, whereunder as per Rule 6(b), a minimum service of six completed years for Sub Inspector of Police was provided in order to get promoted as Inspector of Police and Deputy Superintendent of Police. After repealing of the said Rules of 1966, one Direct Recruit filed O.A.No.2533 of 1999 before the A.P.Administrative Tribunal, challenging Rule 5(F) of the A.P.Police Service Rules issued G.O.Ms.No.2437, dated 08.11.1966 though the said Rules were repealed by a later G.O.Ms.No.137, dated 01.06.1998. The Tribunal noticing the ratio laid down in **Roshan Lal vs.**

Union of India¹ to the effect that the classification on the basis of source of initial recruitment is invalid as it violates Articles 14 and 16 of the Constitution of India held that Rule 5(F) of A.P. Police Service Rules issued in G.O.Ms.No.2437, Home Department, dated 08.11.1966 is bad and lastly it struck down with a direction to the respondents to consider the case of the applicant therein for promotion while including him in 'C' list for the year 1995 over and above the unofficial respondents 4 and 5 therein. The said order has become final. Though by virtue of supercession of A.P. Police Service Rules, 1966, in 1998, no such order is required, as a matter of fact the Tribunal passed the said order on 06.02.2004.

It appears that the issue relating to the criteria for the purpose of promotion to the higher post came up for consideration before a Division Bench of this Court in W.P.No.27749 of 2007 and batch, and the Division Bench by order dated 31.07.2008 held that the consideration of prospective or retrospective operation of Rule 6 of the New Rules does not arise since Rule 5(F)(i) was there in the Special Rules even before the parties therein were appointed into the service. The amendment has not taken away the rigour of old Rule, i.e., Rule 5(F)(i) insofar as deciding eligibility criteria for promotion to the post of Inspector/Deputy Superintendent of Police is concerned and ultimately held that the seniority is altogether different from that of the eligibility criteria as per Rule 5(F)(i) of the A.P. Police Service Rules.

It appears that the issue of seniority in the cadre of Deputy Superintendent of Police and the seniority list published in that regard in G.O.Ms.No.108, dated 23.06.2014 came up for consideration before another Division Bench of this Court in W.P.No.9654 of 2016 and batch and the Division Bench by its order dated 19.09.2017 directed the cadre controlling authorities to undertake the exercise of rectifying the defects in

¹ AIR 1967 SC 1889

drawing up the seniority in the feeder cadre of Inspectors of Police (Civil) as notified in G.O.Ms.No.54, dated 22.02.2014 and G.O.Ms.No.115, dated 18.07.2014 and thereafter undertake the consequential exercise of finalising seniority of DSPs (Civil), by including direct recruit Superintendent of Police also, upto 01.06.2014. Though the said observation was made in respect of the seniority of Deputy Superintendents of Police, now it is stated that the seniority of Inspectors of Police is also not finalised.

In view of the directions of the Division Bench to undertake the fresh exercise of preparation of seniority of feeder cadre of Inspectors of Police (Civil), it is needless to observe that the cadre controlling authorities shall take into consideration the fact of repeal of G.O.Ms.No.2437, dated 08.11.1966, more particularly, Rule 5(F) of the Rules as set aside by the Tribunal in its order in O.A.No.2533 of 1999, dated 06.02.2004, and the effect of G.O.Ms.No.137, dated 01.06.1988 while finalising the seniority list.

The writ petition is accordingly disposed of. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

14.12.2017
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