

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.342 OF 2016

ORDER: (*Per Hon'ble Dr. Justice Shameem Akther*)

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

"To issue a writ, order or direction, more in the nature of writ of certiorari calling for the records relating to the orders dated 07.11.2014 passed in O.A. No.7095 of 212 on the file of the A.P. Administrative Tribunal and the Memo No.16/SC-A/A3/2012-13 dated 02.05.2012 of the 2nd respondent and quash/set-aside the same as erroneous or contrary to law and consequently direct the respondents to consider the claim of the petitioner for promotion to the post of Assistant Commandant on acceleratory basis as per G.O.Ms.No.95 Home (Police C) Dept., dated 17.03.1993 on par with his juniors by declaring the action of the respondents in not recommending the case of the petitioner for auxiliary promotion to the post of Assistant Commandant despite the petitioner entitled for the same on account of the fulfillment of the eligibility parameters and outstanding performance."

2. Heard Sri V.Maheswar Reddy, learned counsel for the writ petitioner, and the learned Government Pleader for Services, and perused the record.

3. The case and contention of the writ petitioner is that he was initially appointed as Reserve Sub Inspector of Police in the year 1996 and thereafter, by virtue of seniority, eligibility and merit, he was further promoted to the cadre of Reserve Inspector in the year 2005. Further, he worked in the Grey Hounds for the period from 1998 to August 2008 and, during his tenure, he had participated in number of field operations, which include combing operations of naxals and he was awarded with 13 stars to his credit and 65 marks as on the date of declaring accelerated promotions in the month of June, 2006. In the year 2009, one

Inspector, whose merit by no stretch of imagination be construed as superior to the petitioner's merit, was conferred with the auxiliary promotion. After noticing that his meritorious and outstanding service is not being given due weightage and recognition, the petitioner was constrained to raise a grievance by way of filing representation to the Director General of Police and Additional D.G.P., A.P.S.P. Battalions and Additional I.G.P., Intelligence, Hyderabad, with a request to consider his claim for accelerated promotion as Assistant Commandant and the same was not yielded a positive result. While he was working in Grey Hounds, no promotions were effected under G.O.Ms.No.95, dated 17.03.1993. After he was transferred to his parent department, six officers, who are juniors to him and whose performances are far less than his performance in the field of containing naxals, were all given accelerated promotions as Assistant Commandants, in the years 1999 to 2012, ignoring his claim.

4. Further, it is contended that the Government had issued G.O.Ms. No.95 dated 17.03.1993 introducing the scheme of accelerated promotions for outstanding work done in extremist field. He also made a representation on 27.12.2008 to the D.G.P., Andhra Pradesh, to consider his case, but the same was not considered. Thereafter, he filed O.A. No.8969 of 2011 before the Andhra Pradesh Administrative Tribunal, Hyderabad and the same was disposed of on 12.12.2011 with a direction to the respondents to consider the application of the petitioner for accelerated promotion as per the G.O.Ms. No.95 dated 17.03.1993. The 2nd respondent, without giving reasons and examining his case, rejected his request through order dated 02.05.2012. Therefore, the writ petitioner filed O.A. No.7095 of 2012 before the Andhra Pradesh Administrative Tribunal, Hyderabad, praying to direct the respondents to consider the case of the petitioner for promotion as per the G.O.Ms. No.95 dated 17.03.1993. The said O.A. was also dismissed by the Tribunal by the order dated 07.11.2014. Questioning the said order of the Tribunal, the present writ petition is filed.

5. Respondent Nos.1 to 3 have filed a counter contending that during the tenure of the writ petitioner in Grey Hounds from 17.07.1998 to 31.08.2008 as AAC/DAC (RSI/RI), he participated in 6 Exchange Of Fire (EOF) and for his performance in the anti-extremist field, he was awarded suitably with "Antrik Suraksha Seva Pathkam" and "President's Police Medal for Gallantry" (PPMG) by the Government of India and "Katina Seva Pathakam" by the Government of Andhra Pradesh, besides cash rewards and good service entries. It is further contended that awarding of marks as per the performances of the individuals is the internal arrangement exists in Grey Hounds unit and is not the criteria for accelerated promotion as per G.O.Ms.No.95, Home (Police C) Department dated 17.03.1993 read with G.O.Ms.No.280, Home (Ser-I) Department dated 17.09.2002 and the deserving cases for promotion on accelerated basis are being recommended only based on their outstanding work and gallant actions in Anti-Extremists operations as well as their future usefulness to the Department, if promoted out of turn. It is further contended that during the tenure of the writ petitioner in Grey Hounds, no proposals were sent for promotions on accelerated basis either to the writ petitioner or to his batch-mates in the rank of DAC/RI to Assistant Commandant, as the issue of seniority between the Inspectors to Deputy Superintendents of Police was pending in the Hon'ble Supreme Court of India. It is further contended that participation of the writ petitioner in six EOF operations while working in Grey Hounds was suitably rewarded by awarding him Katina Seva Pathakam in 2001 and President's Police Medal for Gallantry in 2008 for his contribution in the anti-extremist work and the performance of some good work is part of the responsibility borne consequent to posting in a particular organization and the good work necessarily does not connote the accelerated promotion as is being claimed by the writ petitioner. It is further contended that on receipt of representation of the writ petitioner dated 27.08.2009, the Commandant, 12th Bn. APSP, Nalgonda, was instructed to send the proposals of

the writ petitioner through proper channel in memo dated 22.09.2009 and on receipt of the proposals, the same was placed before the departmental committee for accelerated promotion which met on 05.02.2010 and 11.05.2010, which reviewed the case and not considered as he has already been transferred and posted to APSP Head Quarters. Hence, prayed to dismiss the writ petition.

6. Learned Government Pleader has reiterated the averments of the counter and contended that as on the recommendations, the petitioner is not working in the Grey Hounds; in August, 2008 itself, the writ petitioner has left Grey Hounds on his own; and subject to the availability of vacancies only, auxiliary promotions are to be given and no junior of the petitioner was promoted as Assistant Commandant.

7. In view of the submissions made by both sides, the point for determination is, whether a direction can be given to the authorities concerned to consider the case of the writ petitioner for promotion as Assistant Commandant on acceleratory basis as per G.O.Ms.No.95 Home (Police C) Department, dated 17.03.1993?

8. As per the record placed before this Court, the case of the petitioner was examined twice by the Committee, which was constituted under G.O.Ms. No.95 Home (Police C) Department dated 17.03.1993, for the purpose of providing auxiliary promotions. No record is placed to show that the juniors of the writ petitioner were promoted as Assistant Commandants. When the promotions were effected, the petitioner was not working in the Grey Hounds. No doubt, the petitioner has participated in number of operations and consequently awarded with 65 marks and 13 stars to his credit. Pursuant to the order passed in O.A. No.8969 of 2011 dated 12.12.2011, a proposal was sent to the Committee to examine the case of the petitioner for auxiliary promotion as Assistant Commandant. Even then, his case is not considered, providing

auxiliary promotion is within the realm of the Committee constituted pursuant to the G.O. referred to above. Nothing has been placed on record to show that the performance of the petitioner is exemplary and he is entitled for promotion as Assistant Commandant. When the petitioner has filed O.A. No.7095 of 2012 agitating all his grievances, the Tribunal by order dated 07.11.2014, declined to grant any relief to the petitioner and held that the application of the petitioner is lacking merits and consequently dismissed the same assigning reasons.

9. It is not in dispute that the petitioner was awarded suitable medals for the services rendered by him in Grey Hounds. However, when there is a Committee to recommend for auxiliary promotions, it is not proper to conduct any exercise under Article 226 of the Constitution of India and make a recommendation to the Government for providing auxiliary promotion to the petitioner. Moreover, the findings of the Tribunal are in tune with the G.O.Ms. No.95 Home (Police C) Department, dated 17.03.1993. Accordingly, we are of the considered opinion that there is no infirmity in the impugned order. Therefore, there is nothing to take a different view. Hence, the writ petition is devoid of merits and deserves to be dismissed.

10. In the result, the Writ Petition is dismissed. No order as to costs.

11. As a sequel, miscellaneous petitions pending, if any, shall also stand dismissed.

SURESH KUMAR KAIT, J

Dr. SHAMEEM AKTHER, J

Date: 08-06-2017

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