

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.32898 OF 2016

ORDER:

Petitioner is working as Assistant Sub-Inspector of Police. Next promotion is to the post of Sub-Inspector (Civil). Once an Assistant Sub-Inspector of Police declared as satisfactorily completed the training and passed the examination conducted at the end of the training, the said person acquires eligibility for promotion based on seniority. Petitioner was deputed for four (04) months Pre-Promotional Training (PPT) Course fit to act as Sub-Inspector in the Police Training College at Amberpet. At the end of the training, examinations were held from 15.12.2015 to 19.12.2015. After the examination, results were declared holding the petitioner as passed.

2. In the meantime, there were complaints of malpractices in the examination conducted from 15.12.2015. Charge memo was issued to the petitioner on 06.06.2016. Petitioner submitted detailed explanation explaining that she did not commit any irregularity or malpractice and a false allegation was made against her. On due consideration of her explanation, by an order in R.O.No.472/2016 dated 15.07.2016, the 3rd respondent- Deputy Inspector General of Police (DIG), Hyderabad Range, Hyderabad, took a lenient view on the allegation levelled against the petitioner and dropped further action. The Superintendent of Police, Nalgonda, vide order dated

23.07.2016, passed further orders dropping the disciplinary proceedings and communicated the decision to the petitioner.

3. This Writ Petition is filed praying to grant promotion on par with junior to the petitioner as a consequence to dropping of the disciplinary proceedings. It is not in dispute that the junior to the petitioner was promoted on 29.02.2016.

4. Learned counsel for the petitioner submits that since the disciplinary proceedings are dropped and her result was declared as passed, there is no impediment to grant promotion based on her seniority, more so, her junior was already promoted on 29.02.2016 and not granting the promotion is illegal.

5. Learned Assistant Government Pleader submits by relying on the averments in the counter affidavit and the material enclosed to the counter affidavit, that though disciplinary proceedings were dropped, petitioner was not automatically entitled to promotion. It is his contention that since the result of the petitioner was withheld, unless the petitioner writes examination again and passes the examination, she cannot be treated as eligible to be promoted and therefore, the petitioner cannot seek promotion on par with her junior.

6. When specifically asked to show the orders whereunder the result of the examination conducted between 15.12.2015 and 19.12.2015 was withheld insofar as the petitioner is concerned,

learned Government Pleader is unable to produce any proceedings, but only relies on the averments made in the paragraph No.11 of the counter affidavit.

7. Learned Assistant Government Pleader relies on a Memorandum communicated by the 3rd respondent - DIG on 21.10.2016 to the petitioner to contend that as result was not declared as passed and merely because disciplinary proceedings are dropped, the petitioner is entitled to promotion and further contends that the allegation against the petitioner is serious, therefore, the petitioner is not entitled for promotion.

8. It is strange to note that the very same Deputy Inspector General of Police accepted the explanation submitted by the petitioner and dropped the disciplinary proceedings vide his order dated 15.07.2016. No reasons are assigned in his Memorandum dated 21.10.2016 about his earlier decision. It is not the case of the respondents that the decision of Deputy Inspector General of Police dated 15.07.2016 was erroneously passed and the same was withdrawn. The result sheet filed by the petitioner clearly discloses that insofar as the petitioner is concerned, her result was already declared as passed. It is appropriate to note that in the result sheet, insofar as Sri G.Madhava Reddy and P.Somaiah are concerned, it was clearly written that due to malpractices, their result is withheld. No such endorsement was made insofar as the petitioner is concerned. Thus, admittedly, disciplinary proceedings

were dropped and the petitioner was declared as passed. Therefore, denying promotion to the petitioner even after dropping of the disciplinary proceedings is *ex facie* illegal.

9. An employee can be denied promotion only if such an employee is put under a cloud of disciplinary action. In the instant case, initial denial of promotion may be valid since she was under the cloud of disciplinary action, but once that cloud is removed, as a matter of right, petitioner is entitled to claim promotion.

10. In the instant case, her junior was promoted on 29.02.2016, therefore, petitioner is entitled to claim promotion from that date.

11. Accordingly, the Writ Petition is allowed, respondents are directed to grant promotion to the petitioner to the post of Sub-Inspector of Police (Civil) (Woman) with effect from the date on which her junior was promoted with all consequential benefits.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date:19.01.2017
INL