

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G. SHYAM PRASAD

Writ Petition No.32410 of 2016

JUDGMENT: (per V. Ramasubramanian, J.)

The State has come up with the above writ petition challenging an order of the Andhra Pradesh Administrative Tribunal, setting aside an order of reversion of the 1st respondent herein from the post of Deputy Superintendent of Police to that of Circle Inspector of Police.

2. We have heard the learned Government Pleader for Services (AP) and Mr. Shaik Karimulla, learned counsel for the 1st respondent.

3. The 1st respondent was directly recruited as Reserve Sub Inspector of Police in the year 1984 and was later converted as Sub Inspector of Police (Civil) in the year 1992. He was assigned notional seniority in the rank of Inspector of Police on 01-01-2007 and was promoted Deputy Superintendent of Police on 20-05-2012.

4. However, he was reverted to the post of Circle Inspector of Police by order dated 10-07-2014, while implementing the orders of the Supreme Court of India and while issuing a State-wide Integrated Seniority list of Inspectors of Police. Challenging the order of reversion, the 1st respondent filed an application in O.A.No.4196 of 2014, on the file of the Andhra Pradesh Administrative Tribunal. The Tribunal allowed the application and set aside the order of reversion forcing the State to come up with the present writ petition.

4. It is seen from the order of the Administrative Tribunal that the reversion of the 1st respondent was set aside by the Tribunal primarily on two grounds namely;

a) that the Government had already created supernumerary posts under G.O.Ms.No.185, dated 03-09-2014 to avoid the reversion of 20 candidates including the 1st respondent and

b) that in any case a person by name K. Ravi Kumar, who was junior to the 1st respondent, was promoted as Deputy Superintendent of Police by the proceedings dated 05-11-2014.

5. The grievance of the State is that though 169 supernumerary posts were created under G.O.Ms.No.185, dated 03-09-2014, the name of the petitioner was not recommended by the Departmental Promotion Committee (DPC) in its review meeting held on 27-10-2014. Therefore, the Government claims that the 1st respondent could not be accommodated as against the supernumerary posts.

6. In so far as the second ground on which the Tribunal allowed the application of the 1st respondent is concerned, it is claimed by the Government that the person who was promoted was not K. Ravi Kumar, Inspector of Police of Guntur range to whom the 1st respondent made a reference. The person actually promoted was one K. Ravi Kumar, Inspector of Police of Kurnool range, who was far senior to the 1st respondent. Therefore, it is contended by the Government that the Tribunal allowed the application on a mistaken identity.

7. The response of the 1st respondent to the stand taken by the Government is two-fold namely a) that he was not a party to the orders of the Supreme Court and hence they are not binding on him; and b) that in so far as the case of K. Ravi Kumar was concerned, he himself got it wrongly.

8. We have carefully considered the rival contentions. There is no serious dispute on the part of the 1st respondent that the whole exercise of preparation of State-wide Integrated Seniority list had to be undertaken by the Government, pursuant to the orders of the Supreme Court. It is not open to the 1st respondent to contend that the order of the Supreme Court was not binding on him, as he was not a party thereto. The order of the Supreme Court was binding on the Government and they are obliged to implement the same. Therefore, the first contention of the 1st respondent has to be rejected.

9. In so far as the creation of supernumerary posts are concerned, the State has taken a stand that the review D.P.C. did not find the 1st respondent fit for accommodation against the supernumerary posts. Neither the Tribunal nor this Court can sit in judgment over the view taken by the review DPC.

10. In so far as the case of K. Ravi Kumar is concerned, admittedly and obviously the Administrative Tribunal proceeded on the footing that the said K. Ravi Kumar was junior to the 1st respondent and that he was promoted. But now the State has pointed out that there are two K. Ravi Kumars, one belonging to Kurnool range and another belonging to Guntur range. The 1st

respondent has admitted in paragraph 11 of the counter affidavit that by mistake he relied upon the case of K. Ravi Kumar. Paragraph 11 of the counter affidavit by the 1st respondent reads as follows:

“It is submitted that, the petitioners stated in the said writ petition with regard to the promotion of the candidates, they stated that one K. Ravi Kumar, the person stands of Sl.No.53 in the seniority list, is not connected to this matter. I have mentioned in my affidavit in O.A.No.4196 of 2014 without my knowledge and averments I have mentioned in that O.A. about K. Ravi Kumar issue, afterwards I know that the facts about seniority list, K. Ravi Kumar named candidates are 3 members in the list I wrongly mentioned at that point of filing of my OA about K. Ravi Kumar issue. I apologise to mention the said name in the seniority clarification place. I withdraw the contention of K. Ravi Kumar issue.”

11. Therefore, it is clear that both on a misconception of the scope of the review DPC and on a mistaken identity about one K. Ravi Kumar, the Tribunal allowed the application of the 1st respondent. Hence, the order of the Tribunal is contrary to actual facts as well as the law and requires to be interfered with.

12. Therefore, the writ petition is allowed and the order of the Tribunal is set aside. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 23-02-2017

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