

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.9645 OF 2018

ORDER :

This Writ Petition is filed seeking writ of mandamus declaring the action of the respondents in applying the amendment issued to A.P. Police (Civil) Subordinate Service Rules vide G.O.Ms.No.186, Home (Legal) Department, dated 08.11.2016 to the vacancies of Women Police Constables, existing prior to the amendment , thereby taking away the right accrued to the petitioners for promotion to the post of Head Constable and further action of the respondents in revising Seniority of the petitioners on the basis of amendment issued vide G.O.Ms.No.186, dated 08.11.2016, though the said rule is prospective as illegal and arbitrary and contrary to the law laid down by the Hon'ble Supreme Court in the case of Y.V.Rangayya and others v. T.Srinivasa Rao, reported in 1983 (Supp) SCC 584 and P.D.Agarwal and others v. State of UP, reported in 1987 (3) SCC 622 and State of Madhya Pradesh & others v. Yogendra Shrivastava reported in (2010) 12 SCC 538.

It is the case of the petitioners that initially petitioners were appointed under direct recruitment in the year 2009 as Police Constables (Women). The Post of Women Constable is governed by Telangana Police (Civil) Subordinate Service Rules, (for short 'the Rules') issued in G.O.Ms.No.374 Home (Police.C) dated 14.12.1999 and is included in Class-B, Category-III. As per the aforesaid Rules, the seniority shall be fixed on completion of

training period in the order of merit, which shall be determined in accordance with the aggregate of marks obtained by each probationer as per the Rule 10 of A.P. Police (Civil Police) Subordinate Service Rules. Since the date of their appointment, till the issuance of the impugned G.O, the vacancies in the category of Head Constables were separately maintained for men and women constituted under Class-B and the Government had issued G.O.Ms.No.84 Home (SerIII) Department, dated 17.01.2012 creating additional posts for women in all categories of Inspectors, SI's, Women ASI, HC's and P.C's. While things stood thus, the Government brought amendment to the Rules vide G.O.Ms.No.186 Home (Legal) Department, dated 08.11.2016 whereby separate class for Women Constables has been abolished constituting a single cadre for both men and women in Telangana Police (Civil), as a result of which, now all the Women Police Constables are merged with men in the seniority list, due to which the posts of women Police Constables and Head Constables (Women) are now pooled and merged along with the vacancies of Head Constables (Men). As a result of which, the petitioners and similarly situated Women Constables will lose their seniority and thereby their promotional avenues will be adversely affected.

Heard Sri C.V.Mohan Reddy, learned Senior Counsel appearing on behalf of Sri Shivaji, learned counsel for the petitioners and learned Government Pleader for Services-I.

Sri C.V.Mohan Reddy, learned Senior Counsel submits that as per Clause (v) of Rule 10 of A.P.Police (Civil) Subordinate

Service Rules, the Police Constables who are promoted as Head Constables have to undergo training and not prior to that.

Learned Government Pleader for Services basing on A.P.Police Manual submits that the Police Constables are also required to undergo three months training. Learned Government Pleader, basing on, written instructions submits that the Women Police Constables who are qualified in PPT and included in 'C' list are eligible for promotions to the rank of Women Head Constables against the vacancies that arose on 01.11.2016 i.e., prior to the issuance of G.O.Ms.No.186 Home (Legal) Department, dated 08.11.2016.

Learned Government Pleader for Services produced letter from Director General of Police, Telangana State, Hyderabad dated 06.04.2018 in respect of the subject matter in the writ petition. Para 15 of the written instructions produced by the learned Government Pleader for Services reads as follows:

“15. It is also to inform that after issue of the above GO in some Units, promotions were not effected to some of women Police personnel who have passed PPT and eligible for promotion against the vacancies arose prior to date of issue of above GO i.e., 8-11-2016. It was clarified that the WPCs who are qualified in PPT and included in 'C' list are eligible for promotions to the rank of WHCs against the vacancies that arose on 1-11-2016 i.e., prior to issuance of G.O.Ms.No.186 Home (Legal) Department, dt.8-11-2016 and G.O.Ms.No.187 Home (Legal) Department dt.8-11-2016 vide this Office Memo Rc.No.355/E1/2016, dt.6-2-2017 addressed to CP, Warangal City.”

Rule 10 of A.P.Police (Civil) Subordinate Service Rules provides for Training course for candidates selected by direct recruitment. Clause (v) of Rule 10 of the Rules reads as follows:

“Rule 10 (v): Police Constables of Category-4 of Class-A and Category-3 of Class-B promoted as Head Constables shall undergo a course of training in the Police Recruitment School for such period and pass the tests at the end of training course. Two more

chances will be given to failed candidates. The probation will be terminated, if they do not pass the prescribed tests.

Explanation:- Police Constable who is promoted as Head Constable and whose probation is terminated on account of not passing the tests will not be eligible for promotion again for a period of three years from the date of termination of probation as Head Constable.”

Since the Rules does not provide specifically that Police Constables should undergo PPT training before promotion as Head Constables, the respondents cannot insist the petitioners for undergoing PPT training before promotions as Head Constables basing on the executive instructions in AP Police Manual. However, learned Government Pleader for Services submits that due to some litigation, petitioners' names could not be included in the 'C' list for promotions to the rank of Women Head Constables.

Be that as it may, the grievance of the petitioners stood redressed in view of stand taken by respondents in written instructions, issued by the Director General of Police, wherein it is stated that the Women Police Constables who are qualified in PPT and included in 'C' list are eligible for promotions to the rank of Women Head Constables against the vacancies that arose on 01.11.2016 i.e., prior to issuance of G.O.Ms.No.186 Home (Legal) Department, dated 08.11.2016 and petitioners are also satisfied except to undergoing PPT and inclusion in 'C' list.

In view of above facts and circumstances, this Writ Petition is disposed of directing the respondents to grant promotions to the petitioners in respect of vacancies that arose on or before 01.11.2016, without insisting for undergoing PPT training before

promotions and also inclusion in 'C' list if they are otherwise qualified. However, the petitioners shall undergo training as required under the Rule 10(v) of the Rules, after being promoted as Women Head Constables.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

13.04.2018
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Date: 13.04.2018

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