

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.31978 OF 2018

DATED :18.09.2018

Between :

P.Narsimha Reddy, Aged 50 yrs,
S/o.Late Sri P.Adivi Reddy,
Occu : Head Constable Prohibition & Excise Station,
Pargi : R/o.Khanapoor (V) (Post),
Regadi Ganapoor : Chevella (M),
RR District 501 503 & others.

.. Petitioners

And

District Prohibition & Excise Officer Saroornagar,
Government of Telangana, Ranga Reddy District & others.

.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioners, learned Government Pleader for Prohibition and Excise for the respondents 1 to 3 and learned counsel appearing for the unofficial respondents.

2. Petitioners and unofficial respondents/respondents 5 to 8 were recruited as Constables in Special Armed Police. They were later brought on deputation to Prohibition and Excise department as Excise constables and were absorbed. On 04.05.2015 the Prohibition and Excise Superintendent, Saroornagar, Ranga Reddy District, finalized the seniority list of Excise constables who were brought in this manner. In the said seniority list, petitioners are shown above the unofficial respondents. Based on the seniority assigned to them, petitioners were also further promoted as Head Constables. While so, the unofficial respondents claim to have filed appeal/representation to the Commissioner of Excise, contending that seniority list was wrongly determined and seniority list ought to have been determined based on the merit secured in the selections conducted for recruitment to the post of Police Constables in Special Armed Police.

3. Alleging that the appeal/representation preferred by them was not considered, W.P.No.6701 of 2018 was filed. When the said writ petition came up for consideration, learned Government Pleader for Services informed the Court that the 2nd

respondent would consider the said appeal within a period of eight weeks.

4. In view of the said statement of learned Government Pleader, the said writ petition was disposed of by order dated 28.02.2018 directing the Commissioner, Prohibition and Excise, Nampally Hyderabad, to consider the petitioners' appeal dated 03.09.2016 and representation dated 30.12.2017, as expeditiously as possible, preferably within a period of eight (8) weeks from the date of receipt of copy of the order.

5. Consequent to the said directions the Commissioner, passed orders on 16.07.2018 directing the District Prohibition and Excise Officer, Saroornagar to take necessary action on the request submitted by the petitioners in W.P.No.6701 of 2018/unofficial respondents herein to refix their seniority as per the merit secured at the time of initial selection as Police Constables. He has forwarded the merit list of police constables of first, second, seventh and eighth battalions and consequent to the said order of the Commissioner a provisional seniority list is drawn and communicated to the petitioners.

6. It is the first and foremost submission of learned counsel for the petitioners that the provisional seniority list is drawn without jurisdiction and competence. The same authority who has already finalized the seniority list cannot undertake revised exercise to redraw the seniority list. He would further submit that appeal was not preferred within the time and the appellate authority did not give opportunity to petitioners before directing the subordinate authority to determine seniority in a particular manner and on that ground also, it is illegal.

7. According to learned Government pleader, orders are passed as per the instructions of the Court within the time granted. Further in the meantime merit lists are secured from the battalions and the same would disclose that the unofficial respondents have secured more merit as compared to petitioners and seniority of the direct recruitees has to be determined, based on the merit. In view of the same, the Commissioner directed the District Prohibition and Excise Officer to redraw the seniority list strictly in accordance with the merit secured by them. As list communicated is only the provisional seniority list, there is ample opportunity for the petitioners to raise objections and Court need not interfere at this stage.

8. Learned counsel for the unofficial respondents would submit that earlier erroneously the merit list was not considered in determining the seniority whereas seniority of the direct recruitees has to be determined based on the merit secured and even though unofficial respondents secured higher merit they were deprived of seniority by following a different method which is *ex-facie* illegal. He would further submit that the present exercise is valid and is in accordance with the Telangana State and Subordinate Service Rules and no interference is called for.

9. However, all the counsel fairly submit that as the order of Commissioner was not preceded by opportunity of hearing to the petitioners herein and the exercise ordered by him would result in revising the seniority list finalized in the year 2015, based on which, they also earned promotions, the matter can be relegated to the stage of consideration of representation/appeal preferred

by the unofficial respondents as directed by this Court and affording due opportunity to petitioners.

10. Having regard to the said submission, the order of Commissioner dated 16.07.2018 as well as the provisional seniority list impugned in the writ petition are set aside and the matter is remitted to the stage of direction issued by this Court in W.P.No.6701 of 2018 dated 28.02.2018. The Commissioner shall cause notice on all the affected parties and on due consideration of the respective objections, shall take appropriate decision as warranted by law and communicate the same to the parties.

11. With the above directions the Writ Petition is allowed. Pending miscellaneous petitions shall stand closed.

18th September, 2018
Rds

P.NAVEEN RAO,J

