

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.6872 of 2019

ORDER:

This writ petition is disposed of at the stage of admission with the consent of both the parties.

This writ petition is filed seeking the following relief :-

“.... to issue a writ, order or direction more particularly one in the nature of writ of Mandamus the impugned action of the respondents even there was no legal objection to consider petitioner's case for review D.P.C., even according to Paragraphs 10, 11, 34 and 45 respectively of the Note File C.No.17538/ Ser.III/ A2/ 2016 of Home Department however not complying the Government Memo No.17538/ Ser.III/ A2/ 2016 dt.19.01.2017 for conducting of review D.P.C., and seeking to fill up the vacancy causing due to retirement of her counter part Smt.Basheera Begum, who is now going to retire w.e.f. 31.03.2019 with others ignoring her promotion which is illegal, unjust, unfair and consequently hold that the petitioner is entitled to award notional seniority in the cadre of Dy.Superintendents of Jails w.e.f. 31.3.2011 as per Govt. Memo dt.19.01.2017 and also entitled to be promoted as Superintendent of Jails with all consequential benefits.....”.

Heard Mr.N.Hari Prasad, learned counsel for petitioner and the learned Government Pleader for Home.

It has been contended by the petitioner that she was initially appointed as Assistant Matron on 01.07.1993. Along with the petitioner one Smt.Basheera Begum was also appointed. Smt.Basheera Begum is junior to the petitioner. Later, the petitioner was promoted as Jailor. While preparing panels for promotion to the post of Deputy Superintendent of Jails during the year 2011, the case of the petitioner could not be considered for promotion because of currency of punishment. Thereafter, the petitioner has

preferred an appeal. The appellate authority was pleased to allow the appeal setting aside the punishment imposed on the petitioner. Because of the currency of punishment at that relevant point of time, the case of the petitioner was not considered for promotion to the post of Deputy Superintendent of Jails, but considered the case of her junior viz., Smt. Basheera Begum.

Learned counsel appearing for the petitioner has contended that since the punishment order was set aside by the appellate authority vide G.O.Rt.No.364 dated 16.03.2011, the case of the petitioner has to be considered by convening a review DPC and the petitioner is entitled for grant of notional seniority and promotion to the post of Deputy Superintendent of Jails and further promotion to the post of Superintendent. The Government has also issued Memo dated 19.01.2017 to the effect that appropriate orders be passed by conducting a review DPC and grant notional seniority to the petitioner in the cadre of Deputy Superintendent of Jails with effect from 31.03.2011, but the respondents are not implementing the said Memo. Therefore, appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Superintendent of Jails and further promotion to the post of Superintendent of Jails in terms of the Memo issued by the Government on 19.01.2017.

Learned Government Pleader appearing for respondents has contended that the case of the petitioner will be considered and appropriate orders would be passed in terms of the Memo issued by the Government on 19.01.2017.

This Court, having considered the rival submissions, is of the considered view that this writ petition can be disposed of directing

the respondents to consider the case of the petitioner for promotion to the post of Deputy Superintendent of Jails and further promotion to the post of Superintendent of Jails in terms of the Memo issued by the Government on 19.01.2017 and pass appropriate orders within twelve (12) weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 17-04-2019
Prv



