APHC010123072021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3310]**
(Special Original Jurisdiction)

FRIDAY ,THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 7042/2021

Between:

R.moses **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. BOKKA SATYANARAYANA KAMLA

Counsel for the Respondent(S):

1. GP FOR SERVICES I (AP)

The Court made the following: ORDER

The writ petition is filed under Article 226 of the Constitution of India for the following relief:

"…to **issue a Writ Order or direction more particularly one in the nature of Writ of Certiorari call for the records pertaining to the impugned proceedings in C No 1305/A1/2020 dated 5.02.2021 of the 4th respondent by rejected without jurisdiction or authority to fixing of original seniority to place the petitioner in appropriate positions as per the date of appointment w e f dt 16.8.1995 based on the notification 1993-1994 as per the service rules in the feeder cadre of the Inspectors for promoting the Deputy Superintendent of Police contrary to the G.O.Ms.No.153 Home(Services1) dated 05.10.2018 inview of the common Judgment of the Honble High Court of A P in W.P.No.9654/2016 and Batch dated 19.09.2017 and without following the principle of judgment of Supreme court of India in Civil Appeal No 8833/2019 8835/2019 dated 19.11.2019 proceeding further list of promotions by calling ACRs dt 16.2.2021, as illegal, arbitrary and contrary to service rules and violative of the Article 14, 16, 19, 21 and 309 of constitution of India and Quash the same and consequentially direct the respondents not to proceed further list of promotions on DSP of police by calling ACRs dt 16.2.2021 without fix up the seniority of the petitioner by the competent authority in the cadre of S I of Police as per the notification 1993-**

1994 by selection as per the date of appointment w.e.f. dated 16.8.1995 by placed the appropriate position with all consequential benefits as per the service rules and pass…."

2. Heard Sri Bokka Satyanarayana, learned counsel appearing for the petitioner land learned Government Pleader for Services-I, appearing for the respondents.

3. On hearing, learned counsel for the petitioner submits that, the rejection of impugned Memo dated 15.2.2021 of the 4th respondent was after lapse of 6 months is without jurisdiction or authority and contrary to the direction of this Hon'ble Court passed in WP No.14242 of 2020 dated 19.8.2020, wherein this Court directed the 1st respondent to consider the representation of the petitioner in the light of G.O.Ms.No.153 Home(Services-I) dated 5.10.2018 issued by the Government and also W.P No.9654 of 2018 and batch and pass appropriate orders in accordance with law. He further submits that, even though the petitioner made a representation, the 1st respondent has rejected the same without any material and this itself shows that the competent authority is not ready to honour of service Rules as per Acts and Judgments of the Hon'ble Courts and Apex Courts and only acting upon instructions of the Government and Chief Office, is highly illegal and arbitrary.

4. Per contra, learned Government Pleader appearing for the respondents submits that the respondents have filed counter affidavit denying all the allegations made in the petition. As per counter, he submits that,According to the seniority list of SIs and vacancy position, the names of

belonging 1995-96, the first person is proposed in the year-wise panels, in panel year 2007-08 w.e.f 13-02-2008 whereas all the petitioners are proposed in the panel year 2008-09, 2009-10 according to the seniority and eligibility. Accordingly, G.O.Ms.No.153 Home (Ser.I) Department, dated 5.10.2018 was issued by the Government. He submits that the seniority of SIs who were appointed w.e.f 02-01-1996 and 11-11-1996 who were appointed in one Notification were interspersed along with 1995 batch SIs according to their APPA marks as per the orders issued by the Government and Chief Office. The seniority of the above SIs were re-fixed only on the instructions of Government and Chief Office, but the petitioners did not made any objection on the re-fixation of seniority of the above SIs. Hence, no injustice was done to the petitioners in G.O.Ms.No.153 Home (Ser.1) Department dated 05-10-2018. He further submits that, the Government vide Memo No.3205773/Ser.I/A1/2020, dated 05.03.2020, while enclosing the representation of the petitioners of 1995 batch Inspectors of Police, Eluru Range, and requested the DGP, AP, Mangalagiri to examine and take necessary action in the matter. Further, the petitioners have filed W.P.No.14242/2020 before this Court and the same was disposed of vide order dated 19.08.2020 and directedthat "*since the petitioner made a representation dt:09.01.2019 to the Government, the 1st respondent is directed to consider the same in the light of the G.O.Ms.No.153, Home (Service-1) Department, dt:05.10.2018 issued by the Government and also Writ Petition No.9654 of 2016 and batch and any precedents and pass appropriate orders*

*in accordance with law within (08) eight weeks from the date of receipt of copy of this order."*In pursuance of the above directions, the representation of the petitioners was forwarded to the Government while furnishing the above facts, with a request to take further necessary action vide letter in C.No.16/E1/2020, dated 14.09.2020 of the Director General of Police, Andhra Pradesh, Mangalagiri.

5. Learned Government Pleader further submits that as contended by the petitioner that the 4th respondent i.e., the DIG of Police, Eluru Range, Eluru has no jurisdiction or authority to issue the impugned Memo C.No. 1305/A1/2020, dt:15.02.2021 rejecting the request for re-fixation of seniority and it is contrary to the direction of Hon'ble Court in W.P.No.14242/2020, dt:19.08.2020 is not true and correct. Moreover, the 4th respondent has not issued the above said Memo at his own decision but it has been issued basing on the instructions issued by the Government and Director General of Police, Andhra Pradesh, Mangalagiri vide Memo Rc.No. 1250505/Ser.1/2020, dt:27.10.2020 of Home Services-I Department and Rc.No.16/E1/2020-Eluru Range, dt:09.11.2020 respectively. He further submits that, as per the directions of this Court dated 19.08.2020 in W.P.No.14242/2020, the 1st respondent i.e., Government have considered and examined and rejected the representation of the petitioners, but not by the 4th respondent i.e., the DIG of Police, Eluru Range, Eluru. As such, the grounds raised by the petitioner are not at all correct and the Memo in C.No.1305/A1/2020, dated 05.02.2021 of 4th respondent is not liable to be quashed.

6. Perused the material on record.

7. As seen from the G.O.Ms.No.153 Home (Services-I) dated 5.10.2018 wherein at para 6 & 7 reads as under:

> "6. In the reference 7th read above, the Director General of Police, A.P after disposing the objections received from the Inspectors of Police (Civil) of Andhra Pradesh and Telangana States, has furnished the proposal and requested the Government to issue orders of rectified/ revised Integrated Seniority List of Inspectors of Police (Civil) of Andhra Pradesh and Telangana from the years 1972-73 to 2010-11, keeping in view the Hon'ble High Court common Orders dated 19.09.2017 in W.P.No.9654/2016 and batch cases.
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> 7. Government, after careful consideration of the matter hereby accept the proposal of the Director General of Police, A.P and accordingly invoke Rule 31 of A.P State and Subordinate Service Rules, 1996, and order to publish the Revised Final Integrated Seniority List of Inspectors of Police (Civil) of Andhra Pradesh and Telangana from the years 1972-73 to 2010-11 videAnnexure to this G.O., keeping in view Hon'ble High Court Common Orders dated 19.09.2017 in W.P.No. 9654/2016 and batch cases in supersession of orders issued in G.O.Ms.No.54, Home (Ser.I) Department, dated 22.02.2014 and G.C.Ms.No.115, Home (Ser.I) Department, dated 18.07.2014, subject to outcome of any other O.As/ W.Ps/ pending before the Hon'ble APAT/ High Court and subject to condition that the notional seniority ordered shall be on the principle of "no work no pay" and for the purpose of seniority and promotion only and not for other financial benefits."

8. On a perusal of the impugned Memo No.1305/A1/2020 dated 05.02.2021, wherein, it is observed that, *"the seniority of Sis who are appointed w.e.f. 2.1.1996 and 11.11.1996 in one Notification were interspersed along with 1995 batch Sis according to their APPA marks as per the orders issued by the Government and Chief Office. The seniority of above Sis were re-fixed only on the instructions of the Government and Chief Office, but the petitioners did not made any objections on the re-fixation of seniority of the SIs."*

9. It is the contention of the petitioner that, one Circle Inspector of Police namely A. Chandrasekhar Rao filed WP No.15002 of 2020 questioning Note file C.No.12524/Ser-1/A1/2015 for not fixing the seniority in the cadre of SI of Police along with batchmates of notification 1993-94 and placed the appropriate position by rejected on 9.1.2018. Throughthe Note file,the respondent authority clearly stated that "*Therefore the seniority must be assigned as per the merit one may get in the written examination in a specified notification and training aspect is secondary thing and hence date of undergoing training cannot be an aspect in fixing of seniority*". Therefore, it clearly shows that the seniority must be assigned as per the merit one may get in the written examination in a specified notification and training aspect is secondary thing, but contrary to the above in the note file, in the impugned rejection memo, clearly stated that,"*on instruction of the Government and Chief Office of A.P. fixing the seniority taking PTC marks into account,"* is highly illegal. Therefore, learned counsel for the petitioner contended that the petitioner herein is entitled to and also as per judgment of Hon'bleSupreme Court in Civil Appeal No.8833-8835 dated 19.11.2019, wherein the Apex Court specifically stated that "*Seniority cannot be claimed from a date when the incumbent was not born into service and shall be determined by the order in which appointment are made to the service.*"

10. Considering the submissions of both the learned counsels, this Court is of the view that, since the petitioner made a representation dated 9.12.2019 to the Government, the 1st respondent is directed to consider the

same in the light of the G.O.Ms.No.153 Home (Services-I) dated 5.10.2018 issued by the Government and also WP No.9654 of 2016 & batch dated 19.09.2017, but the respondents have not considered the same and issued the impugned proceedings, without jurisdiction or authority in fixing positions as per the date of appointment w.e.f 16.8.1995 based on the notification 1993-94 as per the service rules in the feeder cadre of the Inspectors, which is highly illegal and arbitrary. Therefore, this Court is inclined to dispose of the writ petition with the following directions :

i) The impugned proceedings in C.No.1305/A1/2020 dated 5.2.2021 of the 4th respondent is hereby set aside.

ii) The respondents are directed to consider the case of the petitioner in fixing original seniority in appropriate position i.e, DSP as per the date of appointment w.e.f. 16.8.1995 based on the Notification 1993-1994 as per the Service Rules.

iii) Further, the respondents are directed to consider the case of the petitioner in the present DPC as and when DPC is scheduled to be held, in the light of the G.O.Ms.No.153 Home (Services-I) dated 5.10.2018 issued by the Government and also as per orders of this Court passed in WP No.9654 of 2016 & batch dated 19.09.2017.

The entire exercise shall be completed within a period of eight (08) weeks from the date of receipt of a copy of this order.

11. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel, all the pending miscellaneous applications shall stand closed.

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DR. K. MANMADHA RAO, J.

Date : 24 -01-2025

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

W.P. No.7042 of 2021

Date :24 .01.2025

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