

THE HONOURABLE SRI JUSTICE G. NARENDAR
AND
THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

W.A.No.664 of 2023

JUDGMENT: *(Per Hon'ble Sri Justice G.Narendar)*

Heard Sri J. Sudheer, Learned Counsel for the Appellants; Sri C. Srinivasa Baba, Learned Counsel; Learned Government Pleader for Services-I and Sri Manoj Kumar B, Learned Counsel representing the respondents.

2. The parties are referred to as per their nomenclature in the Writ Petition.

3. The Appellants are before this Court being aggrieved by the Order dated 03.08.2022 in W.P.No.14443 of 2020 passed by the Learned Single Judge, whereby the Learned Single Judge was pleased to dispose of the Writ Petition, which reads as under:-

"In view of the foregoing reasons, the Writ Petition is allowed while declaring the orders passed by the 3^d respondent in C.No.66/A1/2020, dated 03.07.2020 rejecting the claim of the petitioners as Head Constables (Civil) as illegal and arbitrary and directing the respondents to effect notional seniority and promotion in respect of the petitioners to the post of Head Constables (Civil) w.e.f 11.10.2013/01.01.2014 keeping in view of the orders passed by the Superintendent of Police, Kurnool in the orders in D.O.No.1424/2019 C1/A1/29014, dated 01.12.2019 with and consequential attendant benefits, within four (04) weeks from the date of receipt of a copy of this order. No costs."

4. It is the case of the Appellants that the Learned Single Judge has erred in upholding the case of the writ petitioners that they are entitled for notional seniority without hearing the affected parties i.e., the Appellants herein. On account of the Order of the Learned Single Judge, the official respondents have re-drawn the seniority list and placed the writ petitioners above the Appellants in the order of the seniority. The case of the Appellants in this Appeal is canvassed on the grounds that have not been urged before the Learned Single Judge. In sum and substance, a new case is being canvassed before the Division Bench, which case admittedly was not canvassed before the Learned Single Judge.

5. In that view of the matter, we are of the considered opinion that the Writ Appeal could be disposed of granting liberty to the Appellants to seek for review of the Order passed by the Learned Single Judge in terms of the Law laid down by the Hon'ble Constitution Bench in **Shivdeo Singh and others vs. State of Punjab and others**¹, wherein the Hon'ble Apex Court in similar circumstances was pleased to pass the following order:-

"8. The other contention of Mr. Gopal Singh pertains to the second order of Khosla, J., which in effect, reviews his prior order. Learned counsel contends that Art. 226 of the Constitution does not confer any power on the High Court to review its own order and, therefore, the second order of Khosla, J., was without jurisdiction. It is sufficient to say that there is nothing in Art. 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to

¹ AIR 1963 Supreme Court 1909

correct grave and palpable errors committed by it. Here the previous order of Khosla, J., affected the interests of persons who were not made parties to the proceeding before him. It was at their instance and for giving them a hearing that Khosla' J. entertained the second petition. In doing so, he merely did what the principles of natural justice required him to do. It is said that the respondents before us had no. right to apply for review because they were not parties to the previous proceedings. As we have already pointed out, it is precisely because they were not made parties to the previous proceedings, though their interests were sought to be affected by the decision of the High Court, that the second application was e entertained by Khosla, J."

6. Therefore, liberty is granted to the Appellants to seek review of the earlier Order by way of Review Petition or to file a fresh Writ Petition including final seniority list and also seek an independent relief for review of the earlier Order rendered in W.P.No.14443 of 2020, dated 03.08.2022.

7. Accordingly, the Writ Appeal stands disposed of in above terms. The official respondents shall not give effect to the final seniority list drawn up pursuant to the Order of the Learned Single Judge, for a period of fifteen (15) days.

There shall be no order as to costs. As a sequel, pending applications, if any, shall stand closed.

JUSTICE G. NARENDAR

JUSTICE NYAPATHY VIJAY

Date: 15.02.2024

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**HONOURABLE SRI JUSTICE G. NARENDAR
AND
HONOURABLE SRI JUSTICE NYAPATHY VIJAY**

W.A.No.21 of 2023

Date: 15.02.2024

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