

V. Achuthan Vs. V.A. Nishadmon

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Court : Kerala

Decided On : Apr-08-2010

Judge : K. Balakrishnan Nair and; P.N. Ravindran, JJ.

Appeal No. : WA. No. 684 of 2010

Appellant : V. Achuthan

Respondent : V.A. Nishadmon

Advocate for Def. : No Appearance

Advocate for Pet/Ap. : V. Chitambaresh, Sr. Adv.

Disposition : Appeal dismissed

Judgement :

K. Balakrishnan Nair, J.

1. These Writ Appeals are filed against the common interim order dated 29.3.2010 in W.P.(C) Nos. 3299 and 6745 of 2010, passed by the learned Single Judge.

2. The brief facts necessary for the disposal of the Writ Appeals are the following:

We refer to the Exhibits produced in W.P.(C) No. 3299 of 2010. Ext.P3 is a seniority list of Promotee Sub Inspectors of Police (General Executive Branch) as on 2.3.2003. It was finalised by the Director General of Police, by his proceedings

dated 3.8.2009. The competent authority decided to order promotions to the post of Circle Inspector, from the said list. The direct recruits to the post of Sub Inspector, filed representations against the said steps. A Division Bench of this Court directed the competent authority to consider their representations and also permitted to follow the existing seniority list for promotions, till final orders are passed on the representations. The representations of the direct recruits were rejected by the Government, by Ext.P9 order dated 30.12.2009. Challenging Ext.P9 order, the Writ Petitions were filed. The learned Single Judge noticed that it was not proper to order promotions to the post of Circle Inspector, solely from among the promotees to the feeder category, that is, Sub Inspector of Police. It was also noticed that a seniority list of Sub Inspectors, in the ratio 1:1, between the direct recruits and promotees should be prepared and the same should be used for promotion to the post of Circle Inspector. In that view of the matter, the learned Single Judge passed the interim order to that effect. Obviously, the persons included in Ext.P3 are aggrieved. So, these Writ Appeals are filed.

3. We heard Sri. V. Chitambaresh, learned Senior Counsel for the appellants. The learned senior Counsel submitted that the said direction goes against the direction contained in Ext.P8 judgment. As per Ext.P8 judgment, it was directed to follow Ext.P3 list, till the Government passes final orders on the appeals filed by the direct recruits, against promotions based on Ext.P3. Going by the said judgment, we find that the contention of the learned senior Counsel cannot be accepted. The Division Bench only said, till the appeals are disposed of, the existing list may be used for promotion. If the appeals are wrongly dismissed, the affected persons can challenge that order and pray by way of interim relief, for a direction to order further promotions in accordance with law.

4. Secondly, it is submitted that the learned Single Judge not only interdicted, ordering further promotions based on Ext.P3, but also has directed to follow Ext.P1 seniority list, if the Government thinks fit, for further promotions. The said direction runs counter to the findings in Ext.P2 judgment, which were affirmed by the Division Bench, in Ext.P2(a) judgment, it is submitted. Going by Exts.P2 and P2(a) judgments, we notice that Ext.P1 seniority list was found defective for apparently accommodating promotees, in excess of their quota. So, the

permission given to the Government to follow Ext.P1 is one in favour of the appellants. If at all anybody is aggrieved, it is the writ petitioners. So, on that ground, we need not interfere with the order under appeal.

5. Thirdly, the learned senior Counsel tried to canvass the case on merits. We think, in a Writ Appeal against the interim order, it is not proper for us to undertake that exercise.

6. In the result, the Writ Appeals are dismissed. But, the appellants will be free to move the learned Single Judge for early hearing of the matter. In that event, the learned Judge may consider hearing the Writ Petitions, at an early date.

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