

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 21613 OF 2000

ORDER:

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The present Writ Petition came to be filed to call for the records including the impugned proceedings dated 19.10.2000, issued by the first respondent vide proceedings No.A2/675/APSC/2000, quash the same and consequently direct the first respondent to promote the petitioner as Deputy Executive Engineer with all consequential benefits including monetary, seniority etc., with effect from the date on which his junior was promoted.

The petitioner is a graduate in Civil Engineering and appointed as Assistant Executive Engineer on 15.05.1986 in the second respondent Society i.e., Nizamabad District Scheduled Caste Services Co-operative Society Limited (for short, 'DSCSCS Limited'), Nizamabad. Later on, the petitioner was transferred to Mahaboobnagar DSCSCS Limited on 30.12.1992. It is stated that as per Rule 3 of the Andhra Pradesh Scheduled Castes Finance Corporation and District Scheduled Castes Services Co-operative Societies Engineering Service Rules (for short, 'the Rules'), framed by the Corporation, the method of appointment as prescribed for the post of Deputy Executive Engineer is by promotion of an Assistant Executive Engineer, who has put in more than 5 years, subject to suitability. The other method of promotion is by selecting Assistant Engineers, who has put in more than 8 years of service, including the service put in by them as draftsman Grade-I, if any, subject to suitability. The ratios between the above two feeder categories were fixed as 2:1. The third method of appointment was by direct recruitment. It is stated that as per Rule 4 of the Rules, the first respondent is the appointing authority for the post of Deputy Executive Engineer. Rule 9 prescribes tests for promotion to the post of Deputy

Executive Engineer and one must pass the account test for public works Department officers and subordinate cadres. Therefore, one has to satisfy the above conditions for promotion to the post of Deputy Executive Engineer. The case of the petitioner is that he has satisfied all the requisite qualifications mentioned above and he is suitable to the post of Deputy Executive Engineer. While things stood thus, the first respondent/the Managing Director, Andhra Pradesh Scheduled Caste Co-operative Finance Corporation Limited, Hyderabad, who is the appointing authority, prepared District wise seniority list to fill up the vacancies that occurred in the post of Deputy Executive Engineers in the State. As per the seniority list, the petitioner is at Serial No.4,

Sri K.Vijayakumar, who is at Serial No.1, is promoted and the person who is at serial No.2 has resigned the post long back and left the corporation. It is stated in the affidavit that the person who is at Serial No.3 is suffering with a punishment of stoppage of one increment and as the said punishment is in currency, his case cannot be considered. The fourth vacancy could not be filled up. As per the roaster, the petitioner is shown at Serial No.5 and as per the seniority list the third respondent was shown at Serial No.6. It is stated that there are two posts of Deputy Executive Engineers in the second respondent Society. One post was given to the individual, who is at Serial No.1 and as the person, who is at Serial No.3 is suffering with punishment, the petitioner claims that he will be the second person, as per the seniority list. It is stated that the first respondent, instead of considering the case of the petitioner, promoted the third respondent vide proceedings No.A2/675/APPSC/2000, dated 19.10.2000. Aggrieved thereby, the present Writ Petition is filed.

It is contended by the learned counsel for the petitioner that the third respondent, who is admittedly junior to him, could not have been appointed since he was suffering punishment of stoppage of one increment and the said punishment is in currency. On the other hand, learned counsel for the third respondent denied the allegations made

therein. According to him, the petitioner is appointed as Assistant Executive Engineer in DSCSCS Limited, Nizamabad on 15.05.1986 along with others by the second respondent, who is the Chairman, DSCSCS Limited, Nizamabad. The third respondent was also appointed along with the petitioner under the same proceedings, but he joined duty on 16.05.1986, whereas, the petitioner joined duty on 07.08.1986. It is submitted that though the petitioner and the third respondent were appointed on the same day by the same proceedings, but the joining date of the third respondent was earlier than that of the petitioner. It is thus stated that the third respondent is senior to the Writ Petitioner.

A perusal of the material which is placed before this Court would clearly disclose that the petitioner and third respondent were appointed by virtue of the same proceedings. The date of joining in service by the third respondent was on 16.05.1986, whereas, the petitioner joined duty on 07.08.1986. Therefore, it cannot be said that the petitioner is senior to the third respondent. The second point raised by the learned counsel for the petitioner is that the punishment of stoppage of one increment was imposed against the third respondent, and as the said punishment is in currency, the question of promoting the third respondent, ignoring the petitioner is illegal. On 09.07.2015, this Court directed the learned Standing Counsel for the second respondent to produce service record relating to the third respondent, to find out as to whether any punishment was imposed against the third respondent. The said record was produced before this Court today by Sri Yadava Reddy, learned counsel for respondent Nos.1 and 2. A perusal of the same would show that no such punishment was imposed against the third respondent. Even the learned counsel for the petitioner, who was given opportunity to peruse the records, informed this Court that the record does not reveal imposing any punishment against the third respondent.

In view of the above, I see no merit in this Writ Petition and the

same is accordingly dismissed. No costs.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall also stand dismissed.

JUSTICE C. PRAVEEN KUMAR

16.07.2015

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