

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.15325 OF 2015

ORDER:- (per Hon'ble Sri Justice K.C.Bhanu)

This writ petition is filed challenging the order, dated 18.3.2015, in O.A.No.1581 of 2015 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. Petitioner herein/applicant filed the aforementioned Original Application before the Tribunal to declare the action of respondent Nos.1 to 3 herein in issuing charge memo vide G.O.Rt.No.116, Health Medical & Family Welfare (Vc.1(1)) Department, dated 29.1.2007, and all consequential actions as highly illegal and arbitrary and liable to be quashed on the ground of delay and laches in conducting departmental enquiry and consequently, to set aside the said Government Order by declaring that the applicant is entitled to promotion as Superintendent with all consequential benefits including notional seniority on par with his juniors.

3. The Tribunal, upon considering the material on record, came to a conclusion that the applicant committed irregularities and misappropriated Government funds and that for mere delay in issuing a charge memo, the applicant cannot seek to quash the charges, and accordingly, dismissed the aforementioned Original Application. Challenging the same, the applicant filed the present writ petition.

4. Learned counsel for the petitioner/applicant contended that the petitioner has completed 20 years of service in the cadre of Senior Assistant without promotion

and even after lapse of eight years after issuance of the second charge memo, the enquiry was not completed by the authorities and hence, he prays to set aside the impugned order and give a direction to respondent Nos.1 to 3 herein to give promotion to the petitioner as Superintendent with all consequential benefits.

5. The allegations against the petitioner relate to irregularities said to have been committed by him and misappropriation of Government funds. Therefore, a charge memo was issued calling for the explanation of the petitioner for which the petitioner has given a written statement denying the same. The grievance of the petitioner is that he is entitled to promotion to the post of Superintendent in Zone-V for which he placed a strong reliance on G.O.Ms.No.257, General Administration (SER.C) Department, dated 10.6.1999, whereunder para No.6 reads as follows:

“The appointing authority should consider and decide that it would not be against public interest to allow adhoc promotion to the officer concerned and this shall be decided with reference to the charge under enquiry. If the charge is one of moral turpitude, misappropriation, embezzlement and grave dereliction of duty then the appointing authority should consider as not in the public interest to consider adhoc promotion to such charged officer.....”

In the present case on hand, the allegation against the petitioner is that he committed several irregularities and misappropriated the Government funds. Therefore, the question of consideration of his case for promotion may not arise in view of the fact that he is involved in a serious misconduct resulting in moral turpitude. Considering this aspect, the Tribunal rightly dismissed the aforementioned Original Application. The aforementioned Government Order relied upon by the learned counsel for the petitioner has no application to the facts of the present case. Hence, the impugned order needs no interference of this Court and the writ petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed at the stage of admission. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 02.06.2015

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