

THE HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 13849 of 2004

ORDER: (per Hon'ble Sri Justice G. Chandraiah)

Questioning the orders dated 22.10.2003 in O.A.No.11400 of 2002 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, the State filed this writ petition. For the sake of convenience, the parties will be referred to as they were arrayed before the Tribunal.

2. Briefly stated, the applicant was appointed as Junior Engineer on 20.01.1970 and subsequently promoted as Deputy Executive Engineer on 23.04.1979 and was further promoted as Executive Engineer on 01.12.1997. While so, on receipt of certain complaints from villagers, the 1st respondent issued a charge memo to the applicant vide G.O.Rt.No.431 dated 24.01.2002, which was served on the applicant on 16.02.2002. The applicant submitted his reply on 27.02.2002 denying the charges. The 1st respondent again issued a charge memo in G.O.Rt.No.1415 dated 14.08.2002 imputing another set of three charges. The applicant submitted his reply on 18.10.2002. It is the allegation of the applicant that the 1st respondent issued the charge memos only with a view to initiate disciplinary proceedings and defer his candidature for promotion to the post of Superintending Engineer on the ground of pendency of disciplinary proceedings. It is the grievance of the applicant that the 1st respondent vide G.O.Ms.No.43 dated 25.02.2002 promoted one M. Gangadhara Rao, who is junior to the applicant, as Superintending Engineer. Hence, the applicant prayed the Tribunal to set aside G.O.Ms.No.43 dated 25.02.2002 and issue a consequential direction to the respondents to

consider the applicant for promotion to the post of Superintending Engineer with effect from the date of promoting his junior.

The respondents filed their counter before the Tribunal stating that the two charge memos issued to the applicant pertain to two different sets of charges and that it is never the intention of the respondents to defer the candidature of the applicant for promotion to the post of Superintending Engineer. It is also the averment of the respondents in their counter that though disciplinary enquiry was completed, the Enquiry Officer has not yet submitted his report.

During the course of hearing before the Tribunal, the learned counsel for the applicant relied on the judgment of the Hon'ble Supreme Court in **State of Punjab and others v. Chaman Lal Goyal**^[1] and also the judgment of this Court in **N. Satyanarayana & others v. Secretary, Irrigation Department & others**^[2] to buttress his contention that the applicant's candidature has to be considered without any reference to pendency of disciplinary proceedings.

Learned Government Pleader representing the State while refuting the relevancy of the judgments relied upon by the applicant's counsel stated that, as per G.O.Ms.No.104, GA (Service C) dated 16.02.1990, the candidature of an officer for promotion will be deferred during pendency of disciplinary proceedings.

The Tribunal by its orders dated 22.10.2003, while observing that the respondents have not shown the stage of enquiry and also the further time it would take for its completion, directed the respondents to consider the candidature of the applicant for promotion, as the applicant was due to retire, without reference to the pendency of enquiry. Questioning the orders of the Tribunal, the State filed this writ petition.

3. Heard learned Government Pleader for the petitioners and the learned counsel for the applicant/1st respondent.

4. This Court ordered Rule Nisi on 28.09.2004 and granted interim suspension of the orders of the Tribunal on 08.06.2005. After about two years thereafter, the applicant filed a vacate petition viz., WVMP No.2132 of 2007 seeking vacation of the interim orders dated 08.06.2005. This Court directed to post the vacate petition along with the writ petition.

5. Today, at the hearing, the learned Government Pleader submits that the enquiry was completed in the year 2008 and the charges levelled against the applicant were dropped. Learned Government Pleader also submits that as the applicant retired from service on 31.10.2004, the cause in the writ petition does not survive and hence no further orders are necessary in the writ petition.

6. On the other hand, learned counsel for the applicant submits that the applicant was denied promotion solely on the ground of pendency of disciplinary proceedings. He further submits that the applicant retired on 31.10.2004 and initially provisional pension was paid to the applicant, but as the charges against the applicant were dropped in the year 2008, full pension was paid to the applicant. It is also the submission of the learned counsel for the applicant that the as the charges levelled against the applicant were dropped in the year 2008 and though the applicant retired on 31.10.2004, the applicant is eligible for all consequential retrospective benefits due to dropping of charges.

7. Having considered rival submissions and having regard to the fact that the candidature of the applicant was not considered for promotion while in service on the ground of pendency of disciplinary

enquiry, and as the charges against the applicant were dropped in the year 2008 i.e. after retirement of the applicant on 31.10.2004, any consequential retrospective benefits that the applicant may become entitled to due to dropping of charges is to be decided by the respondent authorities based on the relevant Government Orders.

8. Hence, we deem it appropriate to dispose of the writ petition by granting liberty to the applicant to make appropriate representation to the authorities within a period of two weeks from the date of receipt of a copy of this order. On receipt of representation from the applicant, the respondent authorities shall pass orders within four weeks thereafter, in accordance with law.

9. The writ petition stands disposed of, accordingly. No costs. Miscellaneous petitions, if any pending, shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

01st February, 2016

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

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[\[2\]](#) wp_18442_1998