

**THE HON'BLE SRI JUSTICE SANJAY KUMAR  
AND  
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.26590 OF 2016**

**ORDER**

*(Per Hon'ble Sri Justice Sanjay Kumar)*

The State and its police officials, the respondents in O.A.No.4625 of 2014 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, assail the order dated 01.08.2014 passed therein directing them to consider the case of the 1<sup>st</sup> respondent/applicant for promotion to the post of Deputy Superintendent of Police within a time frame.

The 1<sup>st</sup> respondent/applicant filed the subject O.A. aggrieved by the inaction of the authorities in not considering his case for promotion to the post of Deputy Superintendent of Police as per his eligibility and seniority on the ground that he was involved in an ACB case. The Tribunal took note of the fact that the Government had issued G.O.Rt.No.175, Home (SC.A) Department, dated 07.02.2014 ordering initiation of departmental action against the 1<sup>st</sup> respondent/applicant instead of prosecution. However, as departmental action against him had not been taken forward and as the incident was of over 2 ½ years vintage, the Tribunal concluded that 1<sup>st</sup> respondent/applicant's case for promotion could be considered without reference to the proposed departmental action. The Tribunal accordingly directed the authorities to consider his case for promotion without reference to the ACB proceedings and the departmental action ordered under G.O.Rt.No.175 dated 07.02.2014, if he was otherwise eligible and came within the zone of consideration and pass appropriate orders within six weeks from the date of receipt of a copy of the order.

Heard the learned Government Pleader for Services (AP) and Sri V.Maheswar Reddy, learned counsel on caveat for the 1<sup>st</sup> respondent/applicant.

The learned Government Pleader for Services (AP) would contend that the direction by the Tribunal to consider the case of the 1<sup>st</sup> respondent/applicant within a time frame is in violation of the policy enunciated in G.O.Ms.No.257, General Administration (Ser-C) Department, dated 10.06.1999. She would point out that under item (iii) of para 2 of G.O.Ms.No.424, General Administration (Services.C) Department, dated

25.05.1976, the Government had ordered that an officer who is facing enquiry, trial or investigation and whose record was such that he would have been promoted had he not been facing such enquiry, trial or investigation in respect of the charges which, if held proved, would be sufficient to supersede him. However, if the officer whose promotion is recommended to be deferred is exonerated, he should be promoted to the post, which was filled on a temporary basis, by restoring him to his rightful place in the list of promoted officers with retrospective effect. While so, taking note of the fact that disciplinary proceedings initiated against officers were not being concluded expeditiously and in the meanwhile, officers against whom a disciplinary case/criminal prosecution was pending, were being granted *ad hoc* promotion on the ground that a two year period had elapsed after institution of the disciplinary proceedings, the Government issued policy guidelines under G.O.Ms.No.257 dated 10.06.1999. Thereunder, officers categorized under item (iii) of para 2 of G.O.Ms.No.424 dated 25.05.1976 were directed to be considered for *ad hoc* promotion only after completion of two years from the date of the Departmental Promotion Committee meeting in which their cases were considered for the first time.

In this regard, learned Government Pleader would state that the case of the 1<sup>st</sup> respondent/applicant was considered by the Departmental Promotion Committee on 04.11.2014 for the first time and his promotion was deferred owing to the pendency of the ACB case. She would therefore assert that in terms of G.O.Ms.No.257 dated 10.06.1999, the 1<sup>st</sup> respondent/applicant could be considered for *ad hoc* promotion only after completion of two years, i.e., on or after 04.11.2016.

In that view of the matter, the direction by the Tribunal to consider the 1<sup>st</sup> respondent/applicant's case for promotion within six weeks, seemingly in ignorance of the policy guidelines propounded under G.O.Ms.No.257 dated 10.06.1999, cannot be sustained. The order is accordingly modified to the extent of directing the petitioners herein to consider the case of the 1<sup>st</sup> respondent/applicant for *ad hoc* promotion to the post of Deputy Superintendent of Police without reference to the pending departmental action, in terms of G.O.Ms.No.257 dated 10.06.1999, upon completion of the two year period from the date of his selection for promotion by the first Departmental Promotion Committee, i.e., on or after 04.11.2016. The order under challenge is modified to the extent indicated above.

The writ petition is accordingly allowed in part. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

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**SANJAY KUMAR, J**

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**M.SEETHARAMA MURTI, J**

**17<sup>th</sup> AUGUST, 2016**

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