

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.28464 of 2015

ORDER:

The petitioner was appointed as a cleaner on 09.04.1981. Thereafter, he applied for the post of conductor and he was appointed as a conductor in the year 1983. He was promoted as Assistant Depot Clerk in the year 2006 and was further promoted as a Traffic Inspector-III. The next promotion to the post of Traffic Inspector-III is the Deputy Superintendent (Traffic) and it is the selection post. The respondents invited applications for filling up of the posts of Deputy Superintendents (Traffic) and the petitioner submitted his willingness by letter dated 24.12.2012. The Selection Committee was constituted and interviews were held. The petitioner attended the interview on 23.02.2013. As on the date of said interview, the petitioner was under suspension and hence, the result was kept in a sealed cover. The present writ petition was filed when his representations dated 20.04.2013 and 20.05.2013 were not considered for promotion, and seeking promotion to the post of Deputy Superintendent (Traffic).

A counter affidavit is filed by the respondents stating that the petitioner belongs to the Backward Class (C) community. The petitioner was called for submitting his willingness for promotion as Deputy Superintendent (Traffic) vide letter dated 21.12.2012 and the petitioner submitted his

willingness. The petitioner was interviewed on 23.02.2013 and his case was kept in a sealed cover, as he was placed under suspension at that time. He was under suspension with effect from 16.07.2012 and it was revoked on 23.03.2013. The reliance of petitioner on the Circular dated 28.04.2004 is misplaced, since the said Circular relates to the Schedule Caste and Schedule Tribe candidates. The petitioner secured 51 marks, but '5' marks were deducted for punishment as he was under suspension. It was admitted that the representations dated 20.04.2013 and 20.05.2013, followed by another representation dated 12.06.2013, were received and the petitioner was orally informed that he was not selected, since he did not come up to the selection.

Thus, the factual aspect of the matter is not in dispute. As per the proceedings of the Departmental Selection Committee dated 23.02.2013, it is clear that in terms of the Circular No.PD-27/2003 dated 16.04.2003, the employees under suspension are eligible for consideration of their cases for further promotion, but it will be kept in a sealed cover and after final disposal of the disciplinary proceedings, the Selection Committee shall review the case and decide ranking and promotion of the incumbent.

Learned counsel for the petitioner submits that the disciplinary proceedings, which were pending on the date of consideration of the case of petitioner for promotion, ended in

the award of punishment of withholding of two annual increments with cumulative effect and he shall not be punished by denying promotion. Learned counsel further submits that the deduction of '5' marks for being placed under suspension as on the date of interview is not correct in view of the revocation of suspension. In view of the Circular dated 16.04.2003, the petitioner is entitled for review of his case by the Selection Committee on the conclusion of disciplinary proceedings.

In the circumstances, this Writ Petition is disposed of giving liberty to the petitioner to submit a representation, detailing the treatment meted out to similarly placed persons, within a period of fifteen (15) days from the date of receipt of a copy of this order, and respondent No.2 shall place the matter before the Selection Committee for its consideration and review of the case of petitioner. The Selection Committee shall review the case of petitioner in accordance with law within a period of three (3) months thereafter and pass appropriate orders. No order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

12.09.2016
MVA