

THE HON'BLE SRI JUSTICE A.V. SESA SAI
W.P.Nos.19692 of 2009 and 26660 of 2013

COMMON ORDER:

Since the petitioner in these two cases is one and the same and as the issues are interrelated, this Court deems it appropriate to dispose of these two writ petitions by way of this common order.

2. Heard Sri Polisetty Radha Krishna, learned counsel for the petitioner, Sri G. Subba Rao, learned Standing Counsel for A.P. State Legislative Assembly and the learned Special Government Pleader attached to the office of the learned Advocate General for the State of Andhra Pradesh and the learned Government Pleader appearing for the State of Telangana.

3. In W.P.No.19692 of 2009, challenge is to the action of the A.P. State Legislature, Secretariat in not revoking the order of suspension passed vide G.O.Rt.No.159 Legislature (O.P.I) Secretariat, dated 27.06.1992.

4. In W.P.No.26660 of 2003, challenge is to the Memo No.153/O.P.I/2009, dated 05.06.2013 and the petitioner also prays for a direction to promote him notionally from the post of Assistant Secretary to the post of Legislature Secretary in the panel year 1992-1993 for the purpose of notional promotion, fixation of pay and pensionary benefits.

4. While working as Assistant Secretary, petitioner was placed under suspension vide G.O.Rt.No.159 Legislature (O.P.I) Secretariat, dated 27.06.1992, pending investigation into criminal charge in Cr.No.1 of 1988 of the Crime Branch, CID, Hyderabad. This Court, in WPMP.No.25689 of 2009 in W.P.No.19692 of 2009 on 05.07.2010 directed the respondent to consider and pass appropriate orders as to the promotion of the petitioner, his retrial benefits, pension etc., within a period of 8 weeks. Alleging violation of the said order, C.C.No.1380 of 2010 came to be filed. Thereafter, the respondents issued Memo No.153/O.P.I/2009, dated 05.06.2013, turning down the request/claim of

the petitioner for promotion as Deputy Secretary. The said Memo dated 05.06.2013 is under challenge in W.P.No.26660/2013. Earlier obviously due to the pendency of the cases against the petitioner, respondents did not settle and pay the terminal benefits nor extended the benefit of promotion notionally. There is absolutely no dispute now that in all the criminal cases petitioner herein stood discharged by virtue of the orders passed by this Court in Crl.R.C.Nos.592/2007 and batch dated 01.05.2007. There is absolutely no dispute with regard to the reality that the said orders of this Court were confirmed by the Hon'ble Apex Court by virtue of the orders dated 05.08.2013 passed in Special Leave to appeal (Criminal) No.990-1000 of 2012. It is also to be noted that the respondents also turned down the request of the petitioner for promotion vide Memo.No. 153/O.P.I/2009 dated 05.06.2013, on the ground of alleged involvement of the petitioner in the criminal cases and the statutory enquiry.

7. During the course of hearing, a letter dated 21.06.2016 addressed by the Secretary, State Legislature, to the Office of the learned Advocate General is placed on record stating that the then Secretary is presently working as Secretary, Telangana Legislature and is no way concerned with the A.P. State Legislative Assembly at present.

5. An affidavit deposed by the Secretary to the State Legislature dated 23.06.2016 is filed before this Court stating that no departmental proceedings have been initiated as per the available office records. Therefore, in the considered opinion of this Court, the Memo No. 153/O.P.I/2009, dated 05.06.2013, turning down the request of the petitioner for notional promotion cannot be sustained by any stretch of imagination. Since the petitioner herein was discharged in the criminal cases and no departmental proceedings were initiated, the action of the respondents in not settling and paying the terminal benefits of the petitioner is highly preposterous, iniquitous and reprehensible.

6. For the aforesaid reasons, writ petitions are allowed, setting aside the Memo No.153/O.P.I/2009, dated 05.06.2013 and the respondents

herein are directed to settle all the terminal benefits of the petitioner herein and pay the same, within a period of two months from the date of receipt of this order. It is also made clear that the petitioner herein is entitled to promotion notionally to the post of Legislature Secretary in the panel year 1992-1993 for settlement of all the pensionary benefits. As a sequel, miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V. SETHA SAI, J

Date:23.6.2016

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THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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W.P.Nos.19692 of 2009 and 26660 of 2013

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Dated 24th June, 2016

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