

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND SIXTEEN
(10.03.2016)

PRESENT
THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.7812 of 2016

Between:

V.Srinivas

..... PETITIONER

AND

The Union of India, Ministry of Finance,
Department of Revenue, North Block,
New Delhi, rep.by its Deputy Secretary/
Under Secretary and 3 others

.....RESPONDENTS

Counsel for the Petitioner

: Mr.N.VIJAY

Counsel for Respondent Nos.1 to 3

: Mr.B.NARAYANA REDDY,
Asst.Solicitor General

The Court made the following:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.7812 of 2016

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The Order dated 22.04.2015 in O.A.No.648 of 2013 of the Central Administrative Tribunal, Hyderabad (for short "the Tribunal"), in dismissing the said O.A, is assailed in this writ petition.

The petitioner filed the above mentioned O.A before the Tribunal aggrieved by denial of his promotion on regular basis for the block period of 2011-12 only on the ground that the entries in his Annual Confidential Report (for short "ACR") made on 01.05.2012 and 02.05.2012 are adverse in nature and accordingly the petitioner was found not fit for promotion. Upon considering the above mentioned entries in the ACR, the Tribunal was of the view that denial of promotion to the petitioner based on the said entries which are adverse in nature was proper.

We have carefully read the said entries and we find serious conflict between the opinion of the Officer in part-III at page-4 and the entries made at page-5. Similarly, we find serious conflict in the opinion expressed by the reviewing authority between columns Nos.10 and 11 in part-IV at page-6. However, this Court is not expected to sit in judgment over the interpretation of these entries made in the ACR by the competent authority. If the petitioner was aggrieved by these entries which are considered as adverse in nature by the Departmental Promotion Committee (for short "DPC"), he ought to have availed the remedy of expunction of these remarks.

Mr.N.Vijay, learned counsel for the petitioner, submits that the petitioner was communicated with the ACR remarks on 11.09.2012 and he was given *ad hoc* promotion on 17.09.2012, making him believe that the entries made in the ACR being 'good' they will not work adverse to his interest. He further submits that as the petitioner was given *ad hoc* promotion on 17.09.2012, there was no occasion for him to apply for expunction of the remarks. Learned counsel further submits that since the petitioner was denied promotion on the ground of his ACR entries are adverse in nature, he may be permitted to apply to the competent authority for expunction of the adverse remarks.

In the above facts of the case, we find justification in the submission of the learned counsel for not applying for expunction of the remarks within the stipulated time by the petitioner. Therefore, the petitioner is permitted to apply for expunction of adverse remarks in his ACR within one month from today. Respondent No.2, who is stated to be the competent authority to consider the petitioner's request, shall entertain the application of the petitioner, if filed within the above mentioned time, without raising any objection with regard to limitation, take a decision, strictly, in accordance with law, and communicate the same to the petitioner within one month from the date of his application.

Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

As a sequel to dismissal of the Writ Petition, WPMP No.9933 of 2016, filed by the petitioner for expedite the hearing, is disposed of as infructuous.

C.V.NAGARJUNA REDDY,J

M.S.K.JAISWAL,J

Date: 10.03.2016

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