

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.2711 of 2009

ORDER

Even though the 4th respondent was served, none represents on his behalf. Even after eight years, no counter-affidavit is filed by respondents 1 to 3.

Since this matter pertains to the year of 2009, this Court is inclined to disposed of the writ petition on the basis of the averments made in the affidavit filed in support of the petition.

The 1st respondent appears to have communicated a seniority list of Work Inspectors (Technical) by proceedings dated 31.12.2008, wherein the names of the petitioner and the 4th respondent were shown at serial Nos.28 and 441 respectively. The 1st respondent promoted certain Work Inspectors on 9.2.2009 and the 4th respondent was figured at serial No.198, whereas the case of the petitioner was not considered at all. It is stated that in the list of promotees dated 9.2.2009, the persons at serial Nos.171 to 196 are juniors to the petitioner. The petitioner states that his case was overlooked in view of pendency of disciplinary proceedings. Pursuant to the said disciplinary proceedings, charge memo dated 3.11.2008 was communicated to him on 22.11.2008, for which, he submitted his explanation on 30.11.2008 .

On 11.1.2009, an Enquiry Officer was appointed. It is not known as to whether the said disciplinary proceedings have become final or not. Now the present writ petition is filed challenging the proceedings of promotion dated 9.2.2009

Learned counsel appearing for the petitioner states that as per Rule 5 of A.P. State and Subordinate Service Rules, in the case of non-selection post, promotion and appointment by transfer to higher posts other than those mentioned in sub-rule (a) shall be made in accordance with seniority-cum-fitness, unless such promotion or appointment by transfer of a member has been withheld as a penalty.

In the instant case, it appears that no penalty was imposed on the petitioner.

In view of the same, the writ petition is disposed of directing respondents 1 and 2 to consider the case of the petitioner for promotion to the next higher post of Assistant Engineer (Housing) subject to disciplinary proceedings, if any, provided there is no rule or regularization prohibiting such consideration. The competent authority shall pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. If the petitioner is fit to be promoted, the competent authority shall communicate the order with

regard to the placement of the petitioner by considering his case *vis-a-vis* the juniors. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

14th November, 2017
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