

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No. 29147 OF 2017

DATED 30TH AUGUST, 2017

Between:

Malladi Murty Sree

... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
MA & UD Department, Secretariat,
Velagapudi, Amaravathi,
Guntur, another

... Respondents

Counsel for the petitioner

:

Sri Sravan Kumar Naidana

Counsel for the respondents

:

G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

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

Feeling aggrieved by order dated 16-06-2017 in O.A.No. 1207 of 2017 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal'), the unsuccessful applicant therein filed this Writ Petition.

2. The petitioner is working as Town Planning Building Overseer in Salur Municipality of Vizianagaram District. The Anti Corruption Bureau, Visakhapatnam, has registered a criminal case against him for allegedly possessing assets disproportionate to his known sources of income. The case is registered as C.C.No. 33 of 2017 on the file of the learned Special Judge for ACB Cases, Visakhapatnam. The grievance of the petitioner with which he has filed the aforementioned O.A. was that he is not being considered for *ad hoc* promotion to the post of Town Planning Supervisor on the ground of pendency of criminal case. By the impugned order, the Tribunal dismissed the O.A.

3. Learned counsel for the petitioner has placed reliance on G.O.Ms.No. 257 General Administration (Ser.C) Department dated 10-06-1999. On a careful perusal of the said G.O., we feel that the petitioner's case deserves to be considered under Clause No. 5 (B) (iii) which reads as under:

"An officer whose record is such that he would have been promoted had he not been facing enquiry, trial or investigation, in respect of charges which, if held proved, would be sufficient to supersede him."

4. Accordingly, the respondents are directed to include the name of the petitioner in the list for consideration by Departmental Promotion Committee (for short, 'D.P.C.') as and when it is constituted for *ad hoc* promotion to the post of Town Planning Supervisor. The DPC shall examine the petitioner's case with reference to Clause No. 5 (B) (iii). If, on verification of the service record of the petitioner, it is found that, but for the criminal case, he would have been

promoted in ordinary course, he shall be promoted. The *ad hoc* promotion, if any, of the petitioner shall be subject to the result of the pending criminal case.

5. The Writ Petition is accordingly allowed.

6. As a sequel to disposal of the Writ Petition, W.P.M.P.No. 36282 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

GUDISEVA SHYAM PRASAD, J.

Date: 30-08-2017.

JSK

