

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.224 of 2017

AND

CONTEMPT CASE (TR) No.78 OF 2017

Dated:28.06.2017

Between:

K. Surendranath, S/o. Late K. Prakash
Rao, age 52 years, working as Administrative
Officer, O/o. R.T.O. Mancherial,
Adilabad District

.. Petitioner

And

Government of Andhra Pradesh,
Rep., by its Principal Secretary, Transport,
Roads and Buildings Department,
Secretariat, Hyderabad and another

.. Respondent



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION (TR) No.224 of 2017****AND****CONTEMPT CASE (TR) No.78 OF 2017****COMMON ORDER:**

Heard learned counsel for the petitioner Sri J.R. Manohar Rao and learned Government Pleader for Services – II.

2. Petitioner is working as Administrative Officer. He instituted O.A.No.603 of 2013 before the Andhra Pradesh Administrative Tribunal, Hyderabad, aggrieved by non-consideration of his claim for promotion as Regional Transport Officer on the ground that two disciplinary proceedings are pending against him, one relating to the charge memo dated 16.09.2005 and other relating to charge memo dated 05.08.2011. The Tribunal, by interim order dated 29.01.2013, directed completion of enquiry within three months and held that on failure to complete the enquiry within the prescribed time, disciplinary proceedings would stand terminated. The Tribunal further directed to consider the claim of the petitioner for promotion to the post of Regional Transport Officer without reference to the charge memos, referred to above. Praying to vacate the interim order, the State filed V.M.A.No.442 of 2013. In the meantime, petitioner filed C.A.No.1635 of 2013 alleging disobedience of the orders passed by the Tribunal. M.A.No.3618 of 2013 was filed seeking extension of time fixed by the Tribunal. The said M.A. was dismissed by order dated 14.03.2014. Challenging the said order, the State preferred W.P.No.13968 of 2014. The Division Bench of this Court, after elaborately considering the

issue, by judgment dated 25.06.2015, partly allowed the said Writ Petition.

3. The Division Bench of this Court found fault with the Tribunal order holding that the disciplinary proceedings stand terminated as bad. The Division Bench was informed that charge memo dated 16.09.2005 was dropped and only disciplinary action pending was the charge memo dated 05.08.2011. While granting liberty to the State to continue the disciplinary action, the Division Bench directed consideration of the claim of the petitioner for promotion without reference to the charge memo dated 05.08.2011.

4. In substance, the grievance of the petitioner is that he is not considered for promotion on the ground that two disciplinary proceedings are pending. The entire issue was considered by the Division Bench in W.P.No.13968 of 2014 and the Division Bench directed consideration of the claim of the petitioner for promotion without reference to the charge memo dated 05.08.2011. As noted above, charge memo dated 16.09.2005 was already dropped. This direction of the Division Bench has become final. As seen from the prayer sought in the O.A., now transferred to this Court, the only relief sought for is, consideration of the petitioner for promotion as Regional Transport Officer without reference to two pending charge memos. The said prayer is already granted by the Division Bench.

5. In contempt case, petitioner alleges that in spite of the directions issued by this Court, promotion is not granted to him.

6. Learned Government Pleader for Services – II produced Memo No.0862/C4/2013, dated 01.10.2013 of the office of the Transport Commissioner, which refers to non-consideration of claim of the petitioner for promotion. He submits that the petitioner was not recommended for promotion on the ground that he was not confirmed as Administrative Officer; and that he was promoted as Administrative Officer by virtue of orders granted by the Tribunal in earlier O.A., filed by him to consider him for promotion pending disciplinary proceedings and therefore question of consideration for further promotion without substantively appointed to the post of Administrative Officer would not arise.

7. I am afraid, in view of the issue having been thoroughly considered by the Division Bench of this Court in W.P.No.13968 of 2014, it is not permissible for the respondents to take such hyper technical plea. Furthermore, as stated by Sri J.R. Manohar Rao, learned counsel for the petitioner, petitioner was denied promotion as Administrative Officer on the ground that disciplinary action, pursuant to the charge memo dated 16.09.2005, was pending. As seen from the order of the Division Bench, the Division Bench was informed that those disciplinary proceedings were dropped. In view of dropping of 2015 disciplinary proceedings, the promotion granted to the petitioner as Administrative Officer has to be treated as regular. Having regard to the same, rejection of the petitioner's entitlement for promotion on that ground cannot be said as validly made.

8. The Writ Petition (TR) is accordingly disposed of directing the respondents to consider the claim of the petitioner for promotion

as Regional Transport Officer without reference to charge memo dated 05.08.2011 and without raising objection that he was not confirmed in the Administrative Officer cadre. Such consideration and grant of consequential benefits shall be made as expeditiously as possible preferably within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

9. C.C.(TR).No.78 of 2017 is closed giving liberty to the petitioner to take appropriate steps as warranted, if the orders passed in W.P.(TR).No.224 of 2017 are not complied with.

Miscellaneous Petitions, if any, pending shall stand closed.

Date:28.06.2017
KH

P. NAVEEN RAO, J

