

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD
WRIT PETITION No.29592 of 2017

01.09.2017

Between:

T.Rangaiah

.Petitioner

and

The State of Andhra Pradesh,
represented by its Principal Secretary,
Industries & Commerce Department, Guntur and others

..Respondents

Counsel for the petitioner: Mr.M.K.Raj Kumar

Counsel for the respondents: Government Pleader for Services (AP)

The Court made the following:



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

This writ petition is filed feeling aggrieved by order, dated 26.07.2017 in O.A.No.2170 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), whereby it has dismissed the said O.A. in *limine*.

2. We have heard Mr.M.K.Raj Kumar, learned counsel for the petitioner and the learned Government Pleader for Services (AP) appearing for the respondents and perused the record.

3. The petitioner, who was appointed as the Assistant Director of Handlooms and Textiles in 1997, was promoted as the Deputy Director in 2009 and was officiating as Joint Director from 2012 onwards in the existing vacancy. On 10.11.2015, he was promoted as the Joint Director. He filed the aforementioned O.A. with the grievance that his representation, dated 07.07.2017, for relaxing the minimum service in the cadre of the Joint Director for further promotion to the post of the Additional Director is not being forwarded by the competent authority to the standing committee of officers. The Tribunal, however, dismissed the O.A. on the ground that the petitioner cannot hustle the administration on the grounds that it is not as if the standing committee meeting is scheduled in the near future or that it will meet periodically and that it is not the pleaded case of the petitioner that any of his juniors became entitled for promotion.

4. A perusal of the record shows that the Government of Andhra Pradesh issued G.O.Rt.No.3401, General Administration (GPM & AR) Department, dated 23.07.2012, constituting a standing committee of officers with the Special Chief Secretary to Government, Home Department as its Chairman, four other senior functionaries as the

Members and the Deputy Secretary to Government, General Administration (GPM & AR) Department as the Convenor. It is stated in the G.O. that in order to ensure consistency and uniformity in decision making regarding relaxation of various rules, the standing committee is constituted. In paragraph 5 of the G.O., the purposes for which relaxations would be granted are mentioned. Clause (i) of the said paragraph pertains to relaxation of minimum service/qualifications for promotions. In paragraph 6 of the G.O., it is provided that the standing committee shall meet on a fixed date every fortnight to be decided by the Chairman of the committee and all proposals relating to any exemption and relaxation of any Rule shall be placed before the above committee by the concerned departments.

5. Regrettably, the Tribunal has not considered the contents of the aforementioned G.O. and made its observations, which run contrary to the said G.O., under which if any officer claims relaxation of minimum service/qualifications for promotions, it is incumbent upon the department concerned to place the proposal in that regard before the standing committee. Further, the observation of the Tribunal that the standing committee meeting schedule is not planned in the near future is also erroneous as paragraph 6 of the G.O. as referred to above made it mandatory for the standing committee to sit every fortnight on a date to be decided by its Chairman. The reasoning of the Tribunal that since no junior of the petitioner is promoted, he cannot have any grievance is equally erroneous. If a person is entitled to be considered for promotion by claiming relaxation, he has a right to insist that his claim be considered whether the same may be accepted or not. For this purpose, he need not prove that any of his juniors is promoted ahead of him.

6. For the aforementioned reasons, the flawed order of the Tribunal is set aside. Respondent No.2, who is stated to be the competent authority, is directed to forward the petitioner's representation to respondent No.4 committee, which shall, in its next meeting, consider the petitioner's case for relaxation, take a decision thereon and communicate the same to the petitioner.

7. Subject to the above, the Writ Petition is allowed.

8. As a sequel to allowing the writ petition, W.P.M.P.No.36827 of 2017 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

01st September, 2017
GHN

