

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.29935 of 2017ORDER:

Heard Sri G. Raman Goud, learned counsel for the Petitioner and the Government Pleader appearing for respondent Nos. 1 to 5.

The petitioner states that he belongs to Schedule Caste Community and he is working as Deputy Range Officer at Narayankhed Section of Narayankhed Range of Sanga Reddy District in Medak Circle. In the month of January, 2017, he was issued a Charge Memo under Rule 20 of Telangana State Civil Services (CC&A) Rules, 1991 in R.C.No.075/2017/M4 Dt. 31.01.2017 and the petitioner submitted his explanation, but the departmental proceedings have not been finalized. As per Sub Rule (b) of Rule 6 of A.P. State and Subordinate Service Rules, 1996, the qualifying date to determine a candidate's eligibility for promotion or transfer to the selection post is 1st September of every year. The Government also issued G.O.Ms.No.66 GA (Services-C) Department dt. 30.01.1991 stating that only when charges of misconduct are framed by the competent authority and served on the concerned delinquent officer or a charge sheet was filed against him in a criminal Court, the promotion shall be deferred. He further states that as on 01.09.2016, there were no departmental proceedings pending against him and thus, he is eligible to be considered for promotion to the category of Forest Range Officer. However, without considering the case of the petitioner, respondent No.2 promoted 19 Deputy Range Officers as Forest Range Officers in Zone VI meant for direct recruitment for adhoc promotion on administrative exigencies. Since the petitioner is standing at serial No.22 in the revised provisional seniority list as on 01.01.2016, he

submitted a representation on 29.08.2017 to respondent No.2 to consider his case for promotion as Forest Range Officer during the panel year 2016-2017 and when his representation for promotion to the post of Forest Range Officer was overlooked while granting promotions to 19 persons as Forest Range Officers, the present Writ Petition was filed.

A counter affidavit is filed on behalf of respondent Nos. 1 to 5 admitting that the petitioner is presently working as Deputy Range Officer at Narayankhed Section and Narayankhed Range of Sangareddy District of Medak Circle. The issuance of articles of charges on the petitioner for his negligence in duty is justified on facts. After examining the Written Statement of defence of the petitioner, respondent No.3 has appointed the District Forest Officer, Medak as the Inquiry Officer to inquire into the charges framed against the petitioner and the enquiry is pending. The Government issued G.O.Ms.No.257, GA (Ser.D) Department, Dt. 10.06.1999 issuing certain guidelines and procedure to be followed in consideration of the case of employees against whom disciplinary cases or criminal prosecution are pending or whose conduct is under investigation for promotions. In view of the above guidelines, the panel information along with the case of the petitioner were placed before the DPC for its recommendations and the DPC, which met on 30.08.2017, considered the case of the petitioner and made a recommendation as "not recommended as AOC pending" and it is also stated that the petitioner is facing charges in a Vigilance Case, which is a grave, and for dereliction of duty. The promotions given to 19 persons as Forest Range Officers vide Proceedings dt. 01.09.2017 are only adhoc promotions meant for direct recruitment quota. The post of Forest Range Officer is a selection post and the DPC has not recommended

the case of the petitioner. The representation submitted by the petitioner on 29.08.2017 was considered and rejected on 22.09.2017.

The relief sought for in the present petition is based on G.O.Ms.No.66, Dt.30.01.1991. It is brought to the notice of this Court subsequently the Government issued G.O.Ms.No.257, dt.10.06.1999 superseding G.O.Ms.No.66 dt. 30.01.1991 and as per the said Government Order, the relevant guidelines in para No.5 are as follows:

“Government also order that with immediate effect the following procedure and guidelines, be followed to consider the employees against whom disciplinary cases or criminal prosecution are pending or whose conduct is under investigation, for appointment by promotion or transfer, to next higher categories.

A. the details of employees in the zone of consideration for promotion falling under the following categories should be specifically brought to the notice of the departmental promotion Committees or Screening Committees:-

- (i) Officers under suspension;
- (ii) Officers in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending;
- (iii) Officers in respect of whom prosecution for a criminal charge is pending.

(B). Officers who are facing enquiry, trial or investigation can be categorized into the following groups based on the nature of the allegations of charges pending against them or about to be instituted namely:-

- (i) an officer with a clean record, the nature of charges or allegations against whom relate to minor lapses having no bearing on his integrity or efficiency, which even if held proved, would not stand in the way of his being promoted;
- (ii) an officer whose record is such that he would not be promoted, irrespective of the allegations or charges under enquiry, trial or investigation; and
- (iii) 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.

(C) The suitability of the Officers for inclusion in the panel should be considered on an overall assessment based on the record which should include namely:-

- (i) adverse remarks recorded in the Annual Confidential reports, the penalties awarded and the bad reputation of the officer as vouchsafed by the Head of the Department and the Secretary to the above cases should be considered as falling under category(ii) of Item (B) above.

- (ii) The officers who do not have any adverse entry in the Annual Confidential Report, and who have no penalties awarded against them in the entire duration of the post and not merely in the past five years and whose reputation is vouchsafed by the Head of the Department and Secretary to Government of the Department concerned should be considered as falling under category (iii) of Item (B) above.

The officers categorized as under item (iii) of G.O.Ms.No.424, GA (Ser.C) Department, dt. 25.05.76 as mentioned above only should be considered for adhoc promotion after completion of two years from the date of the departmental promotion committee or Screening committee Meeting in which their cases were considered for the first time.

- (6) The appointing authority should consider and decide that it would not be against public interest to allow adhoc promotion to the officer concerned and this shall be decided with reference to the charge under enquiry. If the charge is one of moral turpitude, misappropriation, embezzlement and grave dereliction of duty then the appointing authority should consider as not in the public interest to consider adhoc promotion to such charged officer. But, however, if the charge is not a grave one but is a minor one, not involving more turpitude, embezzlement and grave dereliction of duty then only in such cases the appointing authority should consider that it would not be against public interest to allow adhoc promotion because till then his record is clean with reference to ACRs, past punishment and reputation in the department as vouchsafed by the Head of the Department and Secretary to Government. The appointing authorities should strive to finalise the disciplinary cases pursuing them vigorously so that within two years the proceedings are concluded and final orders issued.”

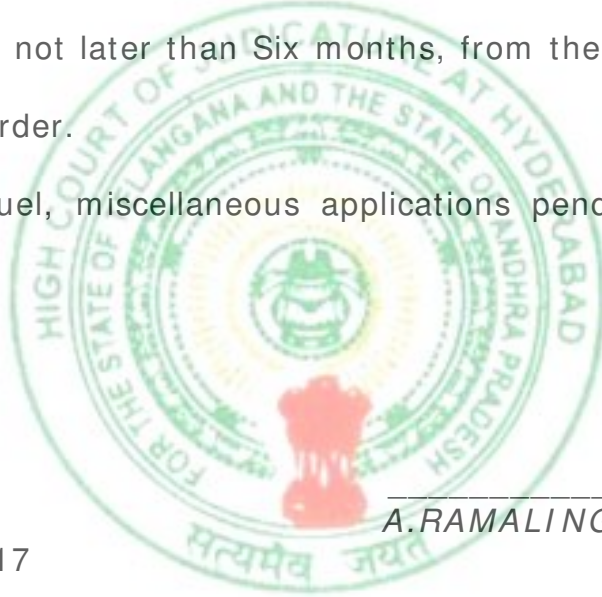
In view of the same, the case of the petitioner was placed before DPC and the DPC has not recommended his case. In the light of the pending disciplinary proceedings and in view of the above G.O.Ms.No.257, dt.10.06.1999, no relief can be granted to the present petitioner. However, as and when the disciplinary proceedings are concluded, it is open to the petitioner to submit a representation and the respondents shall consider the case of the petitioner for future promotion, subject to eligibility and the relevant provisions.

Accordingly, this Writ Petition is disposed of directing the respondents to complete the Disciplinary Proceedings, as expeditiously as possible, but not later than Six months, from the date of receipt of a copy of this Order.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Date: 01.11.2017

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A.RAMALINGESWARA RAO, J

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Dt.01-11-2017

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