

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2514 OF 2017

Date: 27.02.2017

Between:

Mohd. Zakeer S/o late Mohd.Ismail,
Aged about 53 years, Occu: Tahsildar Gadiguda,
R/o 2-5-271/1, Thirupalli locality, Adilabad.

.....Petitioner

and

State of Telangana, rep.by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad and
others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner is the Deputy Tahsildar. Petitioner earlier worked on deputation in A.P.State Civil Supplies Corporation Limited, which is now known as Telangana State Civil Supplies Corporation Limited. Disciplinary proceedings were initiated against him while he was working in the said Corporation on the allegation of involvement in misappropriation. It appears, enquiry was conducted and Enquiry Officer submitted his report. Since petitioner has come back to regular Department, the report of the Enquiry Officer was forwarded to the District Collector by the Corporation vide their letter No.P.Admn.A4/409/2012, dated 25.04.2015. After receipt of the said report along with covering letter, the District Collector issued show-cause notice on 11.12.2015 calling upon the petitioner to submit his explanation. Petitioner filed his explanation on 22.12.2015. In the explanation, petitioner has categorically stated that he has not received any further communication after submission of his explanation and, therefore, it cannot be said that disciplinary proceedings were pending for such a long time.

2. While so, panel of Naib Tahsildars for promotion as Tahsildars was drawn up. As reflected from the Chief Commissioner of Land Administration (CCLA) proceedings dated 01.10.2016, name of petitioner was included in the approved *ad hoc* panel. However, in the final approved *ad hoc* panel for the year 2013-14, notified vide CCLA proceedings dated 10.12.2016, it

was written against name of the petitioner as 'passed over'. Aggrieved thereby, this writ petition is filed.

3. As seen from the Memo dated 11.12.2015, the District Collector, refers to letter of the Corporation dated 25.04.2015, holding that the Corporation requested the Collector to initiate disciplinary proceedings based on the explanation of the petitioner. Learned counsel, therefore, contended that it was at the stage of preliminary enquiry and no formal disciplinary proceedings were initiated and, therefore, question of deferring the petitioner for promotion would not arise. He would further submit that there was no further progress in the Corporation after submission of explanation by the petitioner on 19.06.2013.

4. Having regard to these submissions, learned Government Pleader was directed to produce relevant records and copy of the letter of the Corporation dated 25.04.2015. Learned Government pleader produced the original record. Learned Government Pleader also produced the letter of the Corporation dated 25.04.2015. Along with this letter, report of the enquiry conducted by the District Manager and submitted to the Joint Collector dated 17.09.2014, is enclosed. This would show that enquiry was conducted and report is prepared. However, strangely covering letter dated 25.04.2015 suggests as if fresh disciplinary action is required to be taken and without applying mind, the District Collector simply issued the show-cause notice reflecting what is written in the letter dated 25.04.2015, leading to confusion on the issue. No reasons are forthcoming as to why further action is not taken up against the petitioner. Learned Government Pleader is

not sure whether enquiry report was furnished. Neither the records available with the Government Pleader nor Memo dated 11.12.2015 reflects furnishing of the report of the Enquiry Officer. It is categorical assertion of the petitioner as seen in the explanation dated 22.12.2015, and learned counsel echoed the same and contended that copy of the enquiry report was not furnished to the petitioner.

5. As with reference to the entitlement of the petitioner for promotion, it is seen that in the proceedings dated 01.10.2016, the Chief Commissioner of Land Administration prepared provisional *ad hoc* panel for the year 2013-14, wherein the name of petitioner was included and objections were called. It would clearly show that a tentative panel was drawn. As can be seen from the CCLA further proceedings dated 10.12.2016, after considering the objections, final *ad hoc* panel was published. Before finalizing the *ad hoc* panel, the District Collector informs the Commissioner that petitioner is facing disciplinary proceedings as a consequence to the issue of charge memo dated 15.05.2013. Thus, in the final published *ad hoc* panel, against the name of petitioner, it was written "passed over disciplinary case pending".

6. As seen from the record now produced, enquiry was conducted and report of the enquiry was already furnished to the District Collector. The issue is at the stage of consideration of explanation. Thus, at this stage, the action of the respondents in not granting promotion to the petitioner cannot be faulted. The said action of the respondents is in accordance with the policy of the Government as reflected in G.O.Ms.No.257, General

Administration (Ser.C) Department, dated 10.06.1999. Thus, Court is not inclined to grant relief as sought for by the petitioner by holding that passing over the petitioner is not valid.

7. In view of the same and having regard to the contention that enquiry report was not furnished to the petitioner, the writ petition is disposed of with the following directions:

i) The District Collector, Adilabad (3rd respondent) is directed to furnish copy of the report of the Enquiry Officer to the petitioner within one week from the date of receipt of copy of this order;

ii) Petitioner shall file his explanation as expeditiously as possible, at any rate within three weeks from the date of receipt of report of the Enquiry Officer. It is open to the petitioner to raise all objections including the manner in which enquiry was conducted in the Corporation;

iii) On consideration of such explanation, the Collector shall pass orders as required by law within further period of four weeks.

iv) For any reason, the disciplinary proceedings are not concluded before the next panel is drawn up and delay is not attributable to petitioner, the entitlement of the petitioner shall be considered duly taking note of the orders of the Government in G.O.Ms.No.257, General Administration (Ser.C) Department, dated 10.06.1999.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

Date: 27.02.2017
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