

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.25446 OF 2017

O R D E R

The case of the petitioner as per the averments made in the writ affidavit is that he was initially appointed as Inspector of Legal Metrology in the 2nd respondent department during the year 1996 and in the course of service, promoted as District Inspector of Legal Metrology on 10.08.2007. During the period of probation in the promotional post, he was involved in corruption case and was placed under suspension on 2.8.2008 and was again reinstated into service on 6.4.2011. The case registered based on the complaint of Anti Corruption Bureau against the petitioner in C.C.No.20/2009 on the file of I Additional Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad, ended in acquittal by judgment dated 20.03.2013. Challenging the same, the State preferred appeal before this court and the same is pending adjudication. However, the probation of the petitioner in the promotional post was not declared. While the matter stood thus, the 2nd respondent - The Controller of Legal Metrology, issued provisional seniority list by proceedings dated 21.9.2016, wherein the name of the petitioner was shown at Serial No.1, but no seniority was assigned. The petitioner made a representation dated 29.09.2016 to the 2nd respondent seeking to declare his probation in the cadre of District Inspector of Legal Metrology and to assign seniority. By proceedings dated 24.6.2017, the 2nd respondent issued final seniority list of District Legal Metrology Officers.

In the said list, the petitioner was shown at Serial No.5, but no seniority was assigned and the objections raised by him were replied stating that unless Government pass orders regularizing the suspension period, his probation cannot be declared and his case cannot be considered for next higher cadre. Pursuant to the final seniority list dated 24.6.2017, the petitioner again made representation dated 30.06.2017 to the respondents, to declare his probation and accord seniority at serial No.5 in the seniority list of the District Legal Metrology Officers. Aggrieved by the action of the respondents in not considering his representations and regularizing his suspension period and declaring probation in the promotional post and in not fixing his seniority in the cadre of District Legal Metrology Officers, filed the present writ petition.

Heard the learned counsel for the petitioner, who reiterated the above averments made in the writ affidavit and the learned Government Pleader for Services.

From the above facts pleaded it is found that the petitioner was promoted to the cadre of District Inspector of Legal Metrology on 10.08.2007 and during the period of probation, he was involved in corruption case, which ended in acquittal and appeal filed by the State is pending before this court. He was suspended on 2.8.2008 and was reinstated on 6.4.2011. The said period of suspension was not regularized and his probation in the cadre of District Inspector of Legal Metrology was not declared. After issuing provisional seniority list on

21.9.2016, he filed objections on 29.9.2016 and the 2nd respondent issued the final seniority list vide proceedings dated 24.6.2017. In the said proceedings, the objections of the petitioner were replied as under:

“Individual is acquitted in the case and he is entitled for all benefits as if there was no case pending till the same is reversed in appeal filed by department. The Government have preferred appeal over the verdict of the lower court acquitting individual from the criminal case vide SR No.282014/2014 (Cr.No.15/ACB-HR/2008 with C.C.No.20/2009 held on 2.8.2008, judgment dated 20.03.2013) in the Hon’ble High Court. The case is pending. Mere filing of appeal before superior court and mere pendency of appeal does not debar for considering his case for promotion. The services in a cadre could be regularized and placed on probation from the date from which he has been continuously on duty for a period of not less than 60 days from the date of joining to duty in the said cadre. If the competent authority intends to regularize the suspension period he should be considered for promotion for higher category. However in the absence of the government orders for regularizing the suspension period it is not possible to regularize and declare the services of individual (Suspension period from 2-8-2008 to 6-4-2011).”

From a reading of the above reply it is clear that unless the 1st respondent -Government, which is the competent authority, regularizes the suspension period of the petitioner i.e., from 2-8-2008 to 6.4.2011, it is not possible for the 2nd respondent to declare his probation in the cadre of District Inspector of Legal Metrology and fix his final seniority in the cadre of District Legal Metrology Officers. Ventilating his grievance, the petitioner has already made representation dated 30.06.2017 to the respondents.

Therefore, having regard to the above facts and circumstances of the case, the writ petition is disposed of at the stage of admission, directing the 1st respondent – State of Telangana, represented by its Principal Secretary, Consumer Affairs, Civil Supplies and Legal Metrology Departments, to consider the representation of the petitioner dated 30.06.2017, by taking into account the above facts and circumstances

and the reply given by the 2nd respondent to the objections of the petitioner vide proceedings dated 24.06.2017, and pass appropriate orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

DATE:01—08—2017

AVS

