

*THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI*

WRIT PETITION No.14678 of 2017

ORDER: (per SK,J)

The petitioner is the applicant in O.A.No.902 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. By way of the said O.A., the petitioner challenged the action of the authorities in effecting promotions to the post of Chief Engineer from the post of Superintending Engineer basing on the seniority list of Superintending Engineers prepared *vide* proceedings dated 25.10.2016. He sought a consequential direction to the authorities to promote him to the post of Chief Engineer treating him as the senior most in all categories. The specific grievance of the petitioner was that the third respondent herein, the third respondent in the O.A., was treated as senior to him in the cadre of Superintending Engineers in the seniority list dated 25.10.2016.

As we do not propose to go into the merits of the matter and the writ petition is being disposed of without any adverse impact upon the third respondent herein, this Court does not deem it necessary to put him on notice or afford him an opportunity of hearing at this stage.

It is an admitted fact that the petitioner already filed an appeal aggrieved by the aforestated seniority list and the appellate authority is seized of the matter as on date.

That being so, the petitioner could not have maintained an indirect challenge to the very same seniority list which was the subject matter of the appeal by assailing the proposed action of the authorities in making promotions on the strength of the very same seniority list. The Tribunal also opined to this effect and dismissed the O.A.

It is no doubt true that Rule 26 of the Andhra Pradesh State and Subordinate Service Rules, 1996, allows an appellate authority up to one year time to dispose of an appeal against seniority. However, that would not mean that it is open to such an appellate authority to unnecessarily keep the matter pending right up to the expiry of the year. When the authorities propose to make promotions on the strength of the seniority, which is under appeal, it would be apposite that such an appeal is disposed of expeditiously so as to avoid complications in terms of the promotions made having to be revised owing to the result in the appeal.

The writ petition is accordingly disposed of directing the appellate authority to consider and pass appropriate orders upon the petitioner's appeal against the seniority list issued *vide* proceedings dated 25.10.2016 expeditiously. In the event any promotions are made on the strength of the said seniority list in the meanwhile, they shall be subject to the result of the petitioner's appeal.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE N.BALAYOGI

Date:27.04.2017

GJ