

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.355 OF 2017

Dated:27.07.2017

Between:

M.A. Rasheed Khan, S/o. M.A. Majeed
Khan, aged about 53 years, Senior
Assistant, Hyderabad Metropolitan
Development Authority, Tarnaka,
Hyderabad, R/o. Sarronnagar,
Hyderabad

.. Petitioner

AND

The Secretary, Hyderabad Metropolitan
Development Authority, Tarnaka,
Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.355 OF 2017

ORDER:

Aggrieved by the decision of the Hyderabad Metropolitan Development Authority vide Memo dated 11.09.2012, petitioner filed O.A.No.1738 of 2013, now transferred to this Court and renumbered as W.P.(TR).No.355 of 2017.

2. Heard learned counsel for the petitioner and learned Government Pleader for Services – II.

3. Learned counsel for the petitioner submits that petitioner was earlier denied promotion while granting promotion to his junior. Pursuant to the judgment rendered by this Court on 13.06.2011 in W.P.No.15350 of 2005, petitioner was granted notional promotion to the post of Junior Assistant w.e.f. 03.06.1985, the date on which his junior, the 4th respondent, was promoted. However, petitioner was granted promotion as Senior Assistant w.e.f. 16.12.2011 and his claim for promotion as Assistant Estate Officer is denied by the order impugned on the ground that he has not completed three years of service as Senior Assistant to acquire eligibility for promotion and therefore his claim for promotion is not valid.

4. Learned counsel submits that once petitioner is granted notional promotion as Junior Assistant on par with his junior, he is also entitled to all consequential benefits including the promotion granted to the Senior Assistant cadre. He further submits that the 4th respondent was promoted as Senior Assistant

by proceedings dated 02.08.2007, though he was not qualified for promotion. Thus, when notional promotion was granted in the post of Junior Assistant on par with the 4th respondent, petitioner is also entitled to get promotion as Senior Assistant from the date when promotion was granted to the 4th respondent and if promotion as Senior Assistant is ante-dated to the date of promotion granted to the 4th respondent, petitioner has already acquired eligibility for further promotion and therefore denial of promotion to the petitioner is erroneous and he is entitled to be promoted as Assistant Estate Officer as sought by him. However, learned counsel states that on 25.11.2015, petitioner was granted promotion as Assistant Estate Officer.

5. To appreciate this contention, two aspects are required to be noticed, (i) though petitioner was granted notional promotion as Junior Assistant w.e.f. 03.06.1985, to acquire eligibility for promotion as Senior Assistant, it is mandatory that person must pass Accounts Test for Sub-ordinate Officers Part – I. Admittedly, petitioner passed the said test held on 08.05.2010, results of which were declared in March, 2011; (ii) though junior to the petitioner was promoted as Senior Assistant on 02.08.2007, the said promotion was temporary and a reading of the order would not disclose that relaxation was granted from passing Accounts Test. On the contrary, paragraph No.3 of the order would clearly state that the promotion of the 4th respondent was subject to condition that he should pass Accounts Test for Sub-ordinate Officers Part – I. It appears, the 4th respondent did not pass Accounts Test and he was reverted as Junior Assistant on 02.04.2013. Thus, by the time petitioner was promoted as Senior

Assistant, his junior cannot be said as working in higher post as claimed by the petitioner. Admittedly, petitioner passed Accounts Test held on 08.05.2010, results of which were declared in March, 2011. In view of the fact that the junior already stood reverted and petitioner was not qualified for promotion prior to March, 2011, it cannot be said that petitioner was erroneously ignored for promotion from date earlier to the date on which he was promoted as Senior Assistant. Learned counsel for the petitioner does not dispute the fact that person must complete minimum of two years as Senior Assistant to acquire eligibility for promotion as Assistant Estate Officer and therefore by the time when the impugned order was passed, petitioner did not have the minimum service to acquired eligibility for promotion. Therefore, I do not see any illegality in the order impugned in the Writ Petition (TR) warranting interference by this Court.

6. The Writ Petition (TR) is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition (TR) shall stand closed.

P. NAVEEN RAO, J

Date:27.07.2017

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