

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.31835 of 2017

Date:19.9.2017

Between:

R.V.V.Siva Prasad,
S/o R.Anjaneyulu

..... Petitioner

And:

The State of A.P., repto by its
Principal Secretary, Revenue
Department, Guntur District
and two others.

....Respondents

Counsel for the petitioner: Mr. N.Ramesh

Counsel for the respondents: GP for Services (AP)

The Court made the following:

ORDER: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The petitioner, who is working as Senior Assistant in the office of Tahsildar, Dharmavaram, approached the Andhra Pradesh Administrative Tribunal at Hyderabad (for short 'the Tribunal') by filing Original Application No.2432 of 2017 with the grievance that he has not been considered for promotion to the post of Deputy Tahsildar on the ground of the charge memo issued on 24.11.2012. The Tribunal in its inimitable style dismissed the said O.A. *in limini*, however, with certain assumptions which in retrospect are found incorrect. Ignoring the fact that the charge memo was issued as far back as 24.11.2012 and no steps have been taken by the respondents to complete the enquiry for the last 15 years, the Tribunal appears to have taken the charges on their face value in observing that in the face of the grave charges, it cannot be said that the petitioner is fit and suitable for promotion. The Tribunal also observed that it is not known as to why the District Collector did not launch criminal proceedings against the petitioner for misappropriation of huge quantity of PDS palmolien oil and PDS rice.

In the affidavit, filed in support of this Writ Petition, the petitioner has averred that not only that prosecution was launched against him but also the criminal case, which was

numbered as C.C.No.39 of 2013 on the file of the Junior Civil Judge, Guntakal, ended in acquittal ironically on the same day on which the Tribunal has made the above observations in the O.A. i.e., on 22.8.2017.

While this Court has no soft corner for any person who is accused of corruption, the State must, however, follow the rule of law. As being quite often quoted by this Court, in cases of this nature, the right of an employee for consideration for promotion cannot be denied merely because of pendency of disciplinary/criminal proceedings. It is precisely for this reason that the State Government has issued G.O.Ms.No.257, General Administration Department, dated 10.6.1999, laying down exhaustive guidelines for consideration of the claims of the employees facing disciplinary/criminal proceedings depending upon the nature of the charges and the past record of such employees.

In the instant case, though the charges appear to be very grave, which, if proved, may result in dismissal/removal of the petitioner, the fact, however, remains that he is stated to have been acquitted of the charges in the criminal case. The delinquency or otherwise of the petitioner cannot be prejudged merely going by the nature of the charges. Therefore, we set aside the observations made against the petitioner in the impugned order of the Tribunal. The respondents are directed to

consider the case of the petitioner for promotion to the post of Deputy Tahsildar strictly in accordance with G.O.Ms.No.257, dated 10.6.1999. It is needless to observe that in the event, the petitioner is promoted to the post of Deputy Tahsildar, the same shall be subject to the outcome of the disciplinary proceedings.

Subject to the above observations and directions, the Writ Petition is allowed.

As a sequel, WPMP.No.39665 of 2017 is disposed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

19th September 2017

DR

