

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 28905 OF 2017

DATED 29TH AUGUST, 2017

Between:

P.V.K.Bhaskar ... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration &
Urban Development Department,
Secretariat, Velagapudi, Tullur Mandal,
Guntur District, and another ... Respondents

Counsel for the petitioner : Sri P.Amarender

Counsel for the respondents : G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

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

The unsuccessful applicant in O.A.No. 2379 of 2017 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal') filed this Writ Petition feeling aggrieved by its order dated 16-08-2017 dismissing the said O.A.

2. The petitioner is working as Executive Engineer, Andhra Pradesh Capital Region Development Authority, Municipal Administration and Urban Development Department. In respect of a misconduct allegedly committed by him in the years 2009 and 2010, the Government issued G.O.Rt.No. 846 dated 29-10-2014 framing a charge. As per the finding of the Tribunal, so far, inquiry officer has not been appointed. According to the petitioner, even the charge memo has also not been served on him.

3. Be that as it may, the petitioner filed the aforementioned O.A. with the grievance that his claim for promotion to the post of Superintending Engineer is being overlooked only on the ground of pendency of disciplinary proceedings. The Tribunal however dismissed the said O.A. In an almost identical case, this Court passed order on 18-03-2016 (***K.Hari Das Vs. State of A.P. and others***¹), wherein it was held as under:

"Ordinarily, an employee will not be considered for promotion if disciplinary proceedings are initiated against him based on serious allegations. However, an employee cannot be denied promotion by keeping the disciplinary proceedings pending for unduly long periods. From the instructions reported by the learned Government Pleader, it is evident that till now enquiry officer has not been appointed. However, the said P.Mahaboob Khan, who is also facing the charges identical to that framed against the petitioner, has already been promoted."

¹ W.P.No. 8690 OF 2016

This Court in order dated 02-08-2017 (***M.A.Shukoor Vs. State of Andhra Pradesh and another***²) observed as under:

"Despite several orders being passed by this Court finding fault with the respondents for the inertia being shown by them in keeping the departmental proceedings pending for long years and not considering the delinquents for further promotion on the ground of pendency of the said proceedings, the Andhra Pradesh Administrative Tribunal at Hyderabad, has dismissed O.A.No. 21617 of 2017 filed by the petitioner vide order, dated 25-07-2017."

The impugned order is also passed by the Tribunal in line with the orders being passed by it which were set aside by this Court in the aforementioned as well as various other cases. Following the dicta of this Court in ***K.Hari Das*** (*supra*), the order of the Tribunal is unsustainable and the same is accordingly set aside.

4. The Writ Petition is allowed with the direction to the respondents to consider the case of the petitioner as and when DPC is constituted without reference to the charges framed against him. It is however made clear that the promotion of the petitioner, if any made, shall be subject to the outcome of the disciplinary proceedings.

5. As a sequel to disposal of the Writ Petition, W.P.M.P.No. 35962 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

Date: 29-08-2017.

JSK

GUDISEVA SHYAM PRASAD, J.

² W.P.No. 25642 OF 2017