

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.29826 2017

Date:04.9.2017

Between:

T.Sampat Kumar,

S/o Late T.Ramanaiah

..... Petitioner

And:

The State of A.P., repled by its
Principal Secretary, MA & UD
Department, Guntur District
and another.

.....Respondents

Counsel for the petitioner: Mr. R.Rajasekhara Rao

Counsel for the respondents: GP for Services (AP)

The Court made the following:

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

Feeling aggrieved by the inaction of the respondents in considering his case for promotion to the post of Superintending Engineer on the ground of pendency of disciplinary proceedings against him, the petitioner has filed Original Application No.2304 of 2017 before the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'). By the impugned order, the Tribunal has dismissed the said O.A. by taking its usual stand that though an employee cannot be ignored for promotion merely on the ground of pendency of disciplinary proceedings, the respondents cannot be directed to consider the petitioner's case for promotion.

This Court in identical cases reversed the orders of the Tribunal and directed consideration of the claims of the employees against whom the disciplinary proceedings are pending for long time, without reference to such pendency.

One such case is that of *K.Hari Das Vs. The State of Andhra Pradesh, repled., by its Principal Secretary, Municipal Admn & Urban Development Department, Hyderabad & Others*, which was disposed of by this Court by order, dated 18.3.2016 (Writ Petition No.8690 of 2016), wherein it was observed 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.

In these facts and circumstances, we feel that it would be unfair to deny promotion to the petitioner only on the ground of pendency of disciplinary proceedings initiated against him. Therefore, the respondents are directed to consider the case of the petitioner as and when the DPC is constituted without reference to the charges framed against him in the present case.”

The learned Assistant Government Pleader for Services-I (Andhra Pradesh) fairly admitted that the present case also falls in the above-mentioned category of cases, where even an enquiry officer has not been appointed so far.

In the light of the above, the impugned order of the Tribunal is set aside and the Writ Petition is allowed in terms of the relief granted in *K.Hari Das*, referred to above, with the direction that the observations and directions contained therein shall form part of this order.

As a sequel to disposal of the Writ Petition,
WPMP.No.37135 of 2017 is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

04th September 2017

DR

