

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

MONDAY THE SEVENTEENTH DAY OF JULY
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 30336 OF 2016

Between:

P. Venkateshwara Rao ... Petitioner

V/s.

The District Collector,
East Godavari District at Rajahmundry,
East Godavari District & Ors. ... Respondents



Counsel for the Petitioner : Sri V. Ravichandran

Counsel for the Respondents : GP for Services-I [AP]
GP for Revenue

The court made the following: : [order follows]

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
A N D
HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 30336 OF 2016

ORDER : (Oral, *Per the Hon'ble Sri Justice Suresh Kumar Kait*)

This writ petition is filed by the petitioner invoking the inherent jurisdiction of this Court under Article 226 of the Constitution of India, seeking writ of certiorari calling for records relating to and connected with the order dated 26/7/2016 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No. 2400 of 2016 and the impugned charge memo issued by the second respondent in CCLAs Procdgs.No. VSII (2)/7222/2014, dated 24/4/2015 and to quash or set aside the same as erroneous, irrational, vitiated by delay, contrary to the orders issued in G.O.Ms.No. 679, dated 01/11/2008 and to the Judgment of the Hon'ble Supreme Court of India reported in [2015] 43 SCD-196 and in violation of Articles 14 and 16 of the Constitution of India and consequently to hold that the petitioner is entitled to be considered and promoted as Deputy Tahsildar without reference to the disciplinary proceedings initiated by the second respondent vide proceedings aforesaid, with all consequential benefits and to pass such

other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. Heard Sri V. Ravichandran, learned counsel appearing on behalf of the petitioner and the learned Government Pleader for Services-I [AP] and the learned Government Pleader for Revenue [AP].

3. Vide the present writ petition, the petitioner assailed the order dated 26/7/2016 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No. 2400 of 2016, whereby the application under section 19 of the Administrative Tribunals Act, 1985 filed by the petitioner has been dismissed.

4. The case of the petitioner in brief is that the petitioner joined service as a Last Grade Employee. Thereafter, he was promoted as 'Typist' and 'Senior Assistant' respectively. He was working as Senior Assistant since 30/6/2005 and was fully qualified for promotion to the post of 'Deputy Tahsildar' on the basis of seniority but for the disciplinary proceedings initiated against him in April, 2015 along with others, the petitioner was denied promotion, however, several of his juniors were promoted as Deputy Tahsildar. Being aggrieved, the

petitioner filed O.A.No. 6450 of 2015 and the same was dismissed, therefore, he filed the present writ petition.

5. It is the further case of the petitioner is that disciplinary proceedings were initiated against the petitioner vide CCLAs. Proceedings No.VSII(2)/722/2014, dated 24/4/2015 alleging that the petitioner has recommended for issuance of caste certificates though the cases were pending before the District Level Scrutiny Committee. The petitioner submitted a detailed explanation dated 03/6/2015 *inter alia* stating that in the capacity of incharge Revenue Inspector, he has merely forwarded proposals to Tahsildar basing on the verification reports submitted by the field officers viz., Village Revenue Officers. The verification reports were submitted on the basis of data available in the Mee-Seva Centres as well as earlier community certificates issued by the then Mandal Revenue Officers. Though more than one year elapsed from the date of submission of explanation to the charges, enquiry is yet to be conducted and completed in the matter.

6. Mr. V. Ravichandran, learned counsel for the petitioner submits that the Government has stipulated a time limit of three and six

months for completion of enquiries in simple and complicated matters vide orders issued in G.O.Ms.No. 679 dated 01/11/2008 and a similar provision is made in Rule-20 of the A.P. Civil Services [CC & A] Rules, 1991. However, the disciplinary proceedings are not concluded till date, thereby causing prejudice to the petitioner's claim for promotion to the post of Deputy Tahsildar though he is not responsible for the said delay.

7. Learned counsel has pointed out that in para No.8 of the affidavit filed in support of the present writ petition, whereby it is stated that the post of Deputy Tahsildar is a non-selection post and seniority in the Senior Assistant Cadre alone is the criteria. Neither Rule 5[b] nor 6[i] of the A.P. State and Subordinate Service Rules, 1996 constitute a bar for promotion in the event of pendency of charge memo.

8. Sri V. Ravichandran submits that it would be relevant to state that the first respondent vide Circular No. A5/3320/2013, dated 19/11/2013 prepared a tentative list inviting objections for the purpose of filling up vacancies in the Deputy Tahsildar cadre. The petitioner's name was indicated at serial No.28 and in remarks column, it has been mentioned that he is qualified, however, his case was not considered.

Another list was communicated vide Circular No.A5/2868/2014, dated 22/12/2014. In the said list, the petitioner's name is placed at serial No.11. In the remarks column, it has been mentioned that he is qualified for promotion. Accordingly, temporary promotions were accorded vide proceedings dated 27/8/2015 and several individuals who are juniors to the petitioner were promoted ignoring petitioner's candidature for promotion though no charge memo was pending against the petitioner as on 01/9/2000.

9. This Court vide orders dated 10/4/2017 directed the respondents to file reply to para No.8 of the affidavit filed in support of the present writ petition.

10. Accordingly, affidavit filed whereby submitted that the Government vide G.O.Ms.No.514, Revenue [VA] Department, dated 13/8/2012 has provided promotional channel to the cadre of Senior Assistant in the ratio of 60:40 from the two feeder categories Junior Assistant/Typist and Village Revenue Officers. Certain clarification has been issued by the CCLA A.P. vide reference No.Ser-IV(1)/875/2009, dated 14/11/200016 and accordingly, necessary proposals have been

called for from the Revenue Divisional Officers and other officers concerned vide East Godavari Collector's Ref.Rev.ASECOPRM/1/2016-SA[A6]-CLO-EG, dated 11/2/2017 for preparation of the inter-se seniority list in the cadre of Senior Assistant. Soon after receipt of the information, inter-se seniority list will be prepared duly disposing of all the objections from the aggrieved persons. Further with regard to not considering the case of the writ petitioner to give promotion with his juniors, it is submitted that G.O.Ms.No. 257, General Administration [Services-C] Department, dated 10/6/1999 the appointing authority has been empowered to decide to allow adhoc promotion to an individual with reference to charges under enquiry. In the present case, the charges pending against the petitioner is for issue of caste certificates as scheduled tribe without proper and detailed enquiry.

11. The fact remains that on the date, i.e., 01/9/2000 the petitioner was eligible to be promoted as Deputy Tahsildar and no charge memo was pending against him on the said date. This fact is not denied by the learned Government Pleader appearing on behalf of the respondents. Moreover, the post of Deputy Tahsildar is a non-selection

post and seniority in the Senior Assistant Cadre alone is the criteria.

Neither Rule 5 [b] nor 6 [i] of A.P. Subordinate Service Rules, 1996 constitute a bar for promotion in the event of charge memo.

12. In view of the facts and circumstances recorded hereinabove, we deem it appropriate to set aside the orders dated 26/7/2016 passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No. 2400 of 2016. Consequently, the respondents are directed to promote the petitioner to the post of “Deputy Tahsildar” with all consequential benefits from the date on which his juniors were promoted.

13. The above exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

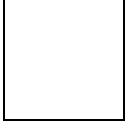
14. With the above direction, the writ petition is disposed of at the stage of admission. There shall be no order as to costs.

15. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SURESH KUMAR KAIT

Dr. JUSTICE SHAMEEM AKTHER

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER**



WRIT PETITION No. 30336 OF 2016

(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)



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