

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.16594 OF 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The State of Andhra Pradesh and its officials in the Police Department filed this writ petition aggrieved by the order dated 26.10.2016 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.4349 of 2014 filed by the respondent herein. The prayer of the respondent-applicant in the said O.A. was to direct the authorities to consider his case for promotion as an Inspector of Police (Civil), notwithstanding the pendency of criminal proceedings initiated against him in the year 2008. By the order under challenge, the Tribunal took note of the fact that the crime against the respondent-applicant was registered as long back as in February, 2008, but it was only in the year 2011 that the CBI filed its charge sheet. As the CBI Court was yet to render its judgment in the said case, which was taken on file as C.C.No.5 of 2011, the Tribunal allowed the O.A. directing the authorities to consider the case of the respondent-applicant for promotion to the post of Inspector of Police in the existing vacancies as per his seniority without reference to C.C.No.5 of 2011, within a time frame. Aggrieved by this direction, the present writ petition came to be filed by the State of Andhra Pradesh and its police authorities.

By order dated 01.06.2017, this Court granted stay of the operation of the order under challenge. W.V.M.P.No.3210 of 2017 was filed by the respondent-applicant to vacate the said order.

It is to be noticed that the Government of Andhra Pradesh put in place G.O.Ms.No.257, General Administration (Ser.C) Department, dated

10.06.1999, laying down the guidelines to be followed by the authorities while dealing with the candidature of employees, against whom disciplinary/criminal proceedings have been instituted, for further promotion. The case of the respondent-applicant would fall within the ambit of the said G.O. and would have to be considered by the departmental promotion committee in accordance therewith, taking into account the gravity of the charges framed against him in the pending C.C. The direction of the Tribunal to completely ignore the pendency of the criminal case therefore cannot be countenanced and requires to be set aside.

The order dated 26.10.2016 passed by the Tribunal in O.A.No.4349 of 2014 is accordingly set aside to the extent it directs consideration of the case of the respondent-applicant without reference to C.C.No.5 of 2011. The authorities are directed to consider the candidature of the respondent-applicant for promotion to the post of Inspector of Police (Civil), duly keeping in mind the guidelines prescribed in G.O.Ms.No.257 dated 10.06.1999 in the context of the charge sheet filed in the aforestated C.C., as and when promotions are taken up for the said post.

The writ petition is allowed to the extent indicated above.

Interim order dated 01.06.2017 shall stand vacated. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

Date: 20.11.2018
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