

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

WRIT PETITION NO.9699 OF 2018

ORDER: (per SK,J)

The petitioner assails the order dated 06.02.2018 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, dismissing O.A.No.179 of 2018 filed by him and seeks a consequential declaration that he is entitled to disposal of his appeal filed before the State of Andhra Pradesh on 19.07.2017 and that he is entitled to be considered for promotion to the post of Development Officer, Handlooms and Textiles, with all consequential benefits.

The petitioner/applicant was working as an Assistant Development Officer in the office of the Assistant Director of Handlooms and Textiles, Ananthapur, when disciplinary proceedings were initiated against him by the Commissioner of Handlooms and Textiles, Hyderabad, *vide* Charge Memo dated 11.11.2011. The allegation against the petitioner/applicant was that he exhibited gross negligence and misconduct in discharging his legitimate duties during the period from 16.08.2008 to 19.08.2010, thereby enabling misappropriation of funds to the tune of Rs.1,43,97,210/-. The enquiry report was submitted holding against the petitioner/applicant in part, in the year 2012. However, it was only by order dated 27.06.2017 that the Commissioner of Handlooms and Textiles, Andhra Pradesh, imposed the major penalty of withholding of five annual grade increments with cumulative effect upon the petitioner/applicant. Aggrieved thereby, he filed an appeal on 19.07.2017 before the Principal Secretary to the Government, Industries and Commerce, (H&T) Department, State of Andhra Pradesh, Velagapudi,

under Rule 33 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991. Seeking expeditious disposal of his appeal, the petitioner/applicant filed O.A.No.179 of 2018 before the Tribunal. By the order dated 06.02.2018, the Tribunal opined that as the appeal was filed by the petitioner/applicant just six months ago and he was not out of employment, no reason was made out to hustle the Government to dispose of the appeal filed just six months ago. The O.A. was accordingly dismissed.

Sri K.Kirithi Teja, learned counsel for the petitioner/applicant, would point out that though the petitioner/applicant has now reached the zone of consideration for promotion, due to imposition of the punishment in June, 2017, he would not be considered despite his eligibility to be promoted. Learned counsel would further point out that the disciplinary authority, having slept over the matter for five years, cannot penalise the petitioner/applicant at this stage. He would therefore contend that the petitioner/applicant's appeal requires to be disposed of expeditiously so that in the event he succeeds therein, his case for promotion can be considered.

We find merit in the submissions made by the learned counsel.

The record reflects that though the enquiry report was submitted as long back as in the year 2012, it was only in June, 2017 that the Commissioner of Handlooms and Textiles, Andhra Pradesh, deemed it appropriate to pass the final order visiting a major penalty upon the petitioner/applicant. As this delay cannot be attributed to him, it would not be fair to deprive him of his case being considered for promotion on the strength of the said punishment. No time stipulation is prescribed for disposal of the appeal filed by the petitioner/applicant but given the

peculiar circumstances of the case, we direct the appellate authority, the first respondent herein, to give priority to the appeal filed by him, consider and dispose of the same on merits as expeditiously as possible, and in any event, not later than six weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above direction.

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:23.03.2018

GJ

