

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.13581 OF 2006

ORDER

This writ petition is filed seeking the following relief:

“... to issue a writ, order or direction particularly one in the nature of Writ of Mandamus declaring procds.No.A2/1402/APSC/2005, dated 30-09-2005 issued by the respondent herein as illegal and arbitrary; and consequently direct the respondent to promote the petitioner as Assistant Executive Engineer retrospectively from the date when a clear vacancy arose in Anantapur District and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Heard Sri M.Panduranga Rao, learned counsel appearing for the petitioner, and Sri G.Seena Kumar, learned Standing Counsel appearing for the respondents.

It is the case of the petitioner that initially, he was selected and appointed as Work Inspector Grade-II in the year 1986 by the District Collector, Anantapur. Thereafter, he was kept in-charge of the post of Assistant Engineer, and since then, he has been continuing as such. It is his further case that though he is eligible for promotion, his case was not considered, whereas his juniors were promoted as Assistant Engineers. Hence, he filed W.P.No.2417 of 1999 before this Court. This Court *vide* order dated 01.07.2005 disposed of the

said writ petition. The operative portion of the said order reads as under:

“The respondents are directed to consider the case of the petitioner for regularizing his services in the cadre of Assistant Engineer from the date when he was put in charge of the said post if the post held by him is a regular vacancy and if he is otherwise eligible and he shall be put on to the pay scale attached to the said post notionally and pass appropriate orders, within a period of 3 months from the date of a copy of this order. There shall be no order as to costs.”

Pursuant to the said order, the respondents have considered the case of the petitioner, but rejected his case *vide* proceedings dated 30-09-2005. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the five persons, who were referred to in the rejection order, are not seniors to the petitioner and in fact, they are working in a lower cadre and they are not Graduates in Engineering, whereas the petitioner is a Graduate in Engineering and that the rejection order passed by the respondents is contrary to the direction issued by this Court in W.P.No.2417 of 1999, wherein this Court specially directed the respondents to consider the case of the petitioner for regular promotion by duly taking into consideration the fact that the petitioner was working as In-charge Assistant Engineer from 1999 and this particular aspect was not taken into

consideration by the respondents while rejecting the case of the petitioner.

Learned Standing Counsel appearing for the respondents contends that pursuant to the order dated 01.07.2005 passed by this Court in W.P.No.2417 of 1999, the respondents have considered the case of the petitioner, but rejected his case on the ground that five other seniors were there, and ignoring their cases, the case of the petitioner cannot be considered. He further contends that the petitioner was appointed as a temporary Work Inspector and as per the staffing pattern of the Corporation, the post of Work Inspector is not a sanctioned post and on that ground also, the case of the petitioner cannot be considered. He also contends that one T.Ananda Reddy, who is junior to the petitioner, was appointed as Work Inspector in Chittoor District and that the petitioner cannot be compared with any other Work Inspector of the neighbouring District. Learned counsel further contends that as the petitioner was promoted as Assistant Engineer on regular basis in the year 2014, the cause in the writ petition does not survive for adjudication.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that when the respondents have undertaken the exercise of

promotions to the post of Assistant Engineer, the case of the petitioner was considered and he was given promotion in the year 2014, the cause in this writ petition does not survive for adjudication and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

8th October, 2018
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