

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

WRIT APPEAL NO.664 OF 2018

JUDGMENT: (per SK,J)

The Telangana State Education and Welfare Infrastructure Development Corporation, Hyderabad (*hereinafter*, 'the Corporation'), the respondent in W.P.No.968 of 2008, is in appeal aggrieved by the order dated 12.02.2018 passed by a learned Judge of this Court allowing the said writ petition with costs and directing the appellant-Corporation to grant to the writ petitioner all consequential benefits which had been withheld on account of issuance of the impugned Charge Memo, including his promotion, within a time frame.

Facts, to the extent relevant, are as follows: The petitioner in W.P.No.968 of 2008 entered the service of the appellant-Corporation as an Assistant Executive Engineer in 1986. He was thereafter promoted as a Deputy Executive Engineer on 19.12.2005. His challenge in the writ petition was against the Charge Memo dated 01.05.2007 issued to him by the appellant-Corporation in relation to alleged irregularities in the execution of construction of a school complex in the year 1994.

By interim order dated 28.01.2008 passed in the writ petition, this Court suspended the said Charge Memo. Upon hearing arguments in the main writ petition, the learned Judge was of the opinion that as the construction work in question was taken up by the respondent-writ petitioner as long back as in the year 1994, the very issuance of a Charge Memo thirteen years later was belated and it would be very difficult for an employee to establish his innocence after such a long lapse of time. The learned Judge also found that there was no valid explanation forthcoming for the inordinate delay in initiation of the disciplinary proceedings against the respondent-writ petitioner. Relying on case law, the learned Judge held in favour of the respondent-writ petitioner and accordingly granted him relief.

Sri A.Yadava Reddy, learned counsel for the appellant-Corporation, would however point out that the vigilance report which led to the issuance of the Charge Memo to the petitioner was dated 19.09.2003 and therefore, the delay could not be taken to be from the year 1994. He would therefore submit that imposition of costs was not warranted.

We find merit in this submission.

That apart, the learned counsel would also point out that the learned Judge did not clarify as to whether the consequential benefit, in the form of promotion, was to be notional. He would point out that the prayer of the petitioner in the writ petition was only for notional promotion as a Deputy Executive Engineer from the date his juniors were promoted and therefore, the respondent-writ petitioner would not be entitled to any monetary benefits in relation to such promotion being granted with retrospective effect.

Sri Ch.Jagannadha Rao, learned counsel for the respondent-writ petitioner, does not dispute the fact that his client only sought notional promotion on par with his juniors and not monetary benefits.

On the above analysis, the writ appeal is allowed only to the extent of setting aside the imposition of costs of Rs.3,000/- upon the appellant-Corporation and clarifying that the respondent-writ petitioner shall be entitled to notional promotion as a Deputy Executive Engineer on par with his juniors and not to any monetary benefits pursuant thereto.

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:26.04.2018
GJ