

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

WRIT PETITION NO.14990 OF 2018

ORDER: (per SK,J)

The petitioner is the unsuccessful applicant in O.A.No.3373 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The said O.A. was dismissed by the Tribunal *vide* order dated 15.12.2017. His prayer in the said O.A. was to direct the authorities to consider his case for promotion to the post of Superintendent/Revenue Officer/Account without reference to the pendency of C.C.No.11 of 2011 on the file of the learned Special Judge for SPE and ACB Cases, Vijayawada, Krishna District. By the order dated 15.12.2017, the Tribunal opined that G.O.Ms.No.257, General Administration (Ser.C) Department, dated 10.06.1999, would not be applicable to the petitioner-applicant's case as a charge sheet was already filed in the criminal case. Further, the Tribunal opined that as the petitioner-applicant was allegedly involved in a bribery/corruption case, he was not entitled to be considered even for *ad hoc* promotion. With these observations, the Tribunal dismissed the O.A. Aggrieved thereby, he is before this Court.

We find from a perusal of G.O.Ms.No.257 dated 10.06.1999 that no distinction is made therein between a case where an employee is charge sheeted in a criminal case and where his involvement is at a stage prior to filing of a charge sheet. It may also be noted that Clause 5(A)(iii) of the G.O. speaks of officers in respect of whom prosecution for a criminal charge is pending. Therefore, there is no question of excluding an employee against whom a charge sheet is filed in a criminal case from the ambit of the G.O. On the other hand, the G.O. records that where the

disciplinary case/criminal prosecution against a Government employee is not concluded even after the expiry of two years, he would be entitled to be considered for further promotion subject to the conditions mentioned therein.

In that view of the matter, the bald finding of the Tribunal that the aforestated G.O. would have no application to the petitioner-applicant as a charge sheet has been filed in C.C.No.11 of 2011 does not stand to reason. Further, the observation that as the petitioner-applicant is involved in a case of bribery/corruption, he should not be considered is also without legal basis as it is for the authorities concerned to consider his case in accordance with the norms stipulated in G.O.Ms.No.257 dated 10.06.1999.

The writ petition is accordingly disposed of directing the authorities to consider the case of the petitioner-applicant for further promotion, if he is within the zone of consideration in accordance with the norms prescribed in G.O.Ms.No.257 dated 10.06.1999 as and when such promotions are taken up. The order passed by the Tribunal holding to the contrary shall stand set aside.

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:30.04.2018

GJ