

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

WRIT PETITION No.15406 OF 2018

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

The petitioner is the unsuccessful applicant in O.A.No.2495 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. His prayer therein was as under:

“Application filed under Section 19 of the Administrative Tribunals Act, 1985 praying this Tribunal to direct the 1st and 2nd Respondents to consider the case of the applicant for promotion as Deputy Executive Engineer without taking into consideration of charge memo issued by the 1st Respondent in G.O.Rt.No.295, MA & UD (Vig.1(2) Department, dated 27-04-2015 and promote him as such on the analogy of orders issued by the Hon'ble High Court in similar circumstances.”

By order dated 29.08.2017, the Tribunal dismissed the O.A. opining that the case of a Government servant for promotion could not be left unconsidered merely because a Charge Memo was pending against him, but no authority or Court or Tribunal could shut its eyes to a pending Charge Memo and recommend his case for promotion by prejudging the issue. The Tribunal further opined that it is for the Departmental Promotion Committee to take a decision independently as to the suitability of the applicant for promotion with reference to all the circumstances, including the pending Charge Memo. The Tribunal concluded that the O.A. was premature and dismissed it accordingly.

It may be noted that the consideration of the case of the petitioner/applicant for promotion would be governed by the instructions put in place by the Government of Andhra Pradesh, *vide* G.O.Ms.No.257,

General Administration (Ser-C) Department, dated 10.06.1999, in relation to promotion of the employees facing disciplinary proceedings.

The writ petition is accordingly disposed of directing the respondents to consider the case of the petitioner/applicant for promotion to the post of Deputy Executive Engineer, 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 shall stand modified to that extent.

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

Date: 27.04.2018
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SANJAY KUMAR, J

M. GANGA RAO, J