

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MS.JUSTICE J. UMA DEVI**

WRIT PETITION No.16623 OF 2018

Between:

G. Parijatham D/o.Venkataramulu,
Aged 41 years, Working as Senior Assistant,
IX Additional District Court, Warangal,
Warangal District.

... Petitioner

v.

The Disciplinary Authority and Hon'ble
Principal District & Sessions Judge,
Warangal, Warangal District and others.

.. Respondents

For Petitioner : Mr. M. Srinivasa Rao

For Respondents : Mr. J. Anil Kumar

Gist : सत्यमेव जयते

Head Note :

Cases Referred : Nil

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

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ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by the refusal of the respondents to grant promotion to the petitioner to the post of Superintendent with retrospective effect from the date on which her junior were promoted, the petitioner, who is working as Senior Assistant, has come up with the above writ petition.

3. Heard Mr. M. Srinivas Rao, learned counsel for the petitioner and Mr. J. Anil Kumar, learned Standing Counsel for the Registry. Personal notices sent to the unofficial respondents have been served, as seen from the memo of service.

4. Two departmental enquiries in D.E. Nos.1/2012 and 1/2013 were initiated against the petitioner, for alleged negligence and irresponsible attitude of the petitioner in handling important case records. The petitioner was exonerated of the charges in D.E. No.1/2012. Insofar as D.E. No.1/2013 is concerned, charge No.1, namely, that of gross negligence was held proved. But, the Disciplinary Authority disagreed with the findings of the Enquiry Officer and held that even charge No.1 was not proved. After holding charge No.1 as not proved, the Disciplinary Authority also made an observation that the conduct and behaviour of the petitioner cannot be

appreciated, since she prolonged the enquiry unnecessarily without any purpose. But nevertheless the charges were dropped and no penalty either minor or major could be imposed on the petitioner.

5. During the time when the disciplinary proceedings were pending against the petitioner, she became due for promotion to the posts of Senior Assistant and Superintendent. But, she was overlooked on account of the pendency of the charges and her juniors, who are the unofficial respondents herein, were promoted.

6. Therefore, the petitioner made representation dated 11.06.2014, pursuant to which she was promoted as Senior Assistant on 25.05.2016. But, the next promotion to the post of Superintendent was not given to her. Instead of placing her name in the interse seniority of Senior Assistants at the appropriate place, she was shown as junior to the unofficial respondents in the gradation list. As a consequence, her juniors were promoted as Superintendents. When the petitioner made a representation, the same was rejected by the District Judge by order, dated 02.04.2018, on the ground that the claim of the petitioner is not in consonance with G.O.Ms.No.331 GAD, dated 03.05.2013. Hence, the petitioner has come up with the above writ petition.

7. The facts are not in dispute. In both the departmental enquiries, the petitioner has been exonerated. The observation made by the disciplinary authority that the conduct of the petitioner in protracting the departmental proceedings is to be condemned, will not tantamount to the recording of any finding of guilt. The moment a

delinquent is exonerated on the charges, he/she is entitled to be considered for promotion with effect from the date on which his/her juniors got promoted.

8. G.O.Ms.No.331 does not create an embargo. Paragraph No.5 of G.O.Ms.No.331, dated 03.05.2013, reads as follows:

“5. In view of the aforesaid circumstances, the Government after careful examination of the matter, issue further orders that promotions shall be considered with prospective effect only in subsequent panel year duly placing the matter before the Departmental Promotion Committee/Screening Committee afresh in respect of the cases where;

- (i) Charges were dropped using the words such as let off, warning, to be more careful in future, on humanitarian grounds, on benefit of doubt etc.,
- (ii) Original order of penalty was modified on appeal or revision, after elapse of stipulated time (or) on humanitarian grounds (or) due to retirement etc.,
- (iii) The individual was acquitted by courts on benefit of doubt in criminal cases.”

9. The case on hand is not covered by paragraph No.5 extracted above. The case on hand is one where charges were found to be not proved and the petitioner was exonerated. This is not a case where the petitioner was acquitted on benefit of doubt by a criminal Court. This is not a case where charges were dropped using the words warning, let off etc. This is a case where charges were held not proved.

10. Therefore, the writ petition is allowed, the impugned order is set aside and the Principal District and Sessions Judge, Warangal, is directed to consider the case of the petitioner for promotion to the appropriate post, on par with her juniors with effect from the date on which her juniors got promoted.

11. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

September 24, 2018.

KTL

