

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

WRIT PETITION No.16546 OF 2018

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

The petitioner is the applicant in O.A.No.9306 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. His prayer therein was to direct the respondent authorities to consider his case for promotion to the post of Superintendent from the category of Senior Assistant on par with his juniors promoted on 09.10.1997. By order dated 10.06.2016, the Tribunal disposed of the O.A. directing the authorities to consider the claim of the petitioner for promotion to the post of Superintendent taking into consideration his service in the cadre of Senior Assistant with effect from 18.06.2009, subject to seniority, eligibility, suitability and as and when he comes within the zone of consideration, in accordance with the rules.

It is the case of the petitioner that he was eligible for promotion to the post of Senior Assistant in the year 1997 but he voluntarily refused the said promotion *vide* his representation dated 08.09.1997. His juniors were thereupon promoted as Senior Assistants with effect from 09.10.1997 in the light of his unwillingness to aspire for the promotional post. While so, in the year 2003, he submitted a representation to the authorities to consider his candidature for promotion to the post of Senior Assistant. However, the authorities did not choose to accede to his request and his junior was again promoted as a Senior Assistant during that year. It was only in the year 2009 that the petitioner approached the Tribunal by way of O.A.No.4427 of 2009 seeking promotion to the post of Senior Assistant. Pursuant to the interim order dated 18.03.2009 passed therein, the

petitioner was promoted as a Senior Assistant *vide* proceedings dated 03.06.2009. His present claim is that his seniority in the cadre of Senior Assistant should be counted with retrospective effect from 09.10.1997 or at least from the year 2003 so that he would come within the zone of consideration for promotion to the post of Superintendent.

The Commissioner, Employment and Training, Andhra Pradesh, filed a counter-affidavit stating that as per the seniority list of Senior Assistants in Zone-IV, the petitioner's position is at Sl.No.153, whereas promotions to the posts of Superintendents from this feeder category have been considered up to Sl.No.124 in open category. He therefore asserted that the petitioner would not come within the zone of consideration.

In the light of the aforesaid admitted facts, it is clear that the petitioner himself, in the first instance, turned down the promotional post in the year 1997. Though he seems to have aspired for the said post in the year 2003, he silently suffered the inaction thereon and did not choose to protest against the promotion of his junior during that year. It was only in the year 2009 that he approached the Tribunal seeking promotion and was duly promoted pursuant to the interim order passed by the Tribunal. It is therefore too late in the day for the petitioner to now seek to turn back the clock and assert any right for a retrospective promotion, be it from 1997 or 2003. Having failed to take measures at the appropriate stage and time, the petitioner cannot now seek any relief on the strength of his belated claim for a retrospective promotion. The Tribunal therefore did not err in refusing his request in this regard and directing his case to be considered as per his seniority in the cadre of

Senior Assistant with effect from 18.06.2009, being the date on which he joined service as a Senior Assistant.

The writ petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

Date: 17.08.2018
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