

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4263 of 2015

ORDER:

This writ petition is filed seeking to issue a writ of mandamus, (i) declaring the action of the respondents in not promoting the petitioner as Assistant Engineer on par with his juniors, as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India; (ii) declaring that the petitioner is entitled to be promoted as Assistant Engineer on par with his juniors who were promoted on 02.04.2007, and (iii) declaring the action of respondent No.2 in not passing orders on the proposals of the 3rd respondent in Rc.No.A1/415/2007, dated 06.07.2013 as illegal and arbitrary.

Heard Sri Srinivasarao Madiraju, learned counsel for the petitioner and Sri M.Ravindranath Reddy, learned standing counsel for the respondents.

It has been contended by the petitioner that he was initially appointed as a Work Inspector and his services were regularized, vide G.O.Ms.No.182, dated 13.11.1991. While he was working as Work Inspector, the petitioner was falsely implicated in ACB case on 27.10.2006, and accordingly, he was kept under suspension, vide proceedings dated 29.10.2006. After regular trial, the petitioner was acquitted in the said ACB case in C.C.No.7 of 2007 by the Special Judge for SPE & ACB Cases, Nellore, vide judgment dated 19.10.2011. Thereafter, the Government has also issued G.O.Rt.No.157, dated 25.05.2012, dropping further action against the petitioner. The petitioner has further contended that consequent upon his acquittal in the criminal

case, he was exonerated and hence he is entitled to be considered for promotion on par with juniors, who were promoted in 2007. The petitioner was kept under suspension from 29.10.2006 to 17.02.2008 and the said period of suspension should be treated as on duty in view of his acquittal in C.C.No.7 of 2007.

Learned standing counsel, appearing for the respondents, has contended that as far as the promotion is concerned, after bifurcation of the State, no promotions have been effected in the cadre of Assistant Engineers, and as and when the Corporation undertakes the promotions, the case of the petitioner will be considered.

Now the issue is when the juniors of the petitioners were promoted in 2007, the case of the petitioner could not be considered on account of pendency of the criminal case against him. The petitioner has been acquitted in the said criminal case and hence his case for promotion to the cadre of the Assistant Engineer on par with the juniors, who have given promotion in 2007, shall be considered.

In view of the above, the writ petition is disposed of, directing the respondents to consider the case of the petitioner for promotion to the post of Assistant Engineer on par with juniors, who were promoted in 2007, by treating the period of suspension of the petitioner as on duty and pass appropriate orders, within a period of 2 (two) months from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 24.04.2018
Dsr