

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

WRIT PETITION No.19979 of 2018

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

The State of Andhra Pradesh and its Chief Conservator of Forests, Kurnool Circle, filed this writ petition aggrieved by the order dated 01.11.2016 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1670 of 2016. The said O.A. was filed by the respondent herein assailing the proceedings dated 28.03.2016 of the Chief Conservator of Forests, Andhra Pradesh, Kurnool Circle, and seeking a consequential direction to the authorities to consider his case for promotion to the post of Deputy Range Officer in the Forest Department. By the order dated 01.11.2016, presently under challenge, the Tribunal opined that the punishments imposed upon the respondent-applicant had worked themselves out and therefore, the proceedings dated 28.03.2016 issued by the Chief Conservator of Forests holding that he was not eligible for promotion was liable to be set aside. The Tribunal accordingly disposed of the O.A. setting aside the said proceedings and directing the authorities to consider the case of the respondent-applicant for promotion after 27.10.2015, being the date on which the currency of the punishment was over.

By order dated 18.06.2018, this Court granted interim suspension of the order under challenge. W.V.M.P.No.2 of 2018 was filed by the respondent-applicant to vacate the said order.

Heard the learned Government Pleader for Services, State of Andhra Pradesh, for the petitioners and Sri G.Venkata Krishnaiah, learned counsel for the respondent-applicant.

Sri G.Venkata Krishnaiah, learned counsel, would point out that the Chief Conservator of Forests, Andhra Pradesh, Kurnool Circle, undertook, *vide* his letter dated 18.12.2017, that the case of the respondent-applicant would be examined and considered in the ensuing panels as per his seniority, eligibility as on that date and suitability, subject to availability of vacancies, as per the relevant rules and assert that the candidature of the respondent-applicant therefore had to be considered after 18.12.2017.

As the learned Government Pleader stated that the respondent-applicant was not eligible to be considered for promotion owing to the later charges that were framed against him and that the Tribunal ought not to have directed consideration of his candidature in the light of the same, we directed the learned Government Pleader to produce the record pertaining to consideration of the candidature of the respondent-applicant after 18.12.2017. Today, the Panel Register for promotion of Forest Section Officers of Kurnool Circle to the category of Deputy Range Officers, Kurnool Circle, during the panel year 2017-18, is placed before the Court.

Perusal of the said Panel Register reflects that the candidature of the respondent-applicant was considered by the Panel Selection Committee on 28.06.2018 and having noted the punishments already imposed upon him in the months of January and October of 2014, the Committee also referred to the later modified punishment imposed in July, 2017. We are informed that this punishment is the subject matter of challenge before the Tribunal and an order of suspension in relation thereto is in operation as on date. The Committee also took note of the pending charges against the respondent-applicant. It appears that Articles of Charges were framed in May, 2014, in one instance, and in July, 2015,

in the other. Reference was also made to an earlier Articles of Charge framed as long back as in June, 2005. Sri G.Venkata Krishnaiah, learned counsel, would however state that the charge framed in 2005 has already worked itself out as the minor penalty of censure was imposed upon the respondent-applicant in relation thereto.

Be that as it may.

It was on the strength of this consideration that the Panel Selection Committee agreed with the recommendation of the D.F.O. that the respondent-applicant should not be recommended for further promotion. The signatures on the page containing this information bear the date 28.06.2018. The Chief Conservator of Forests, Kurnool Circle, affixed his signature on 02.07.2018 with the endorsement 'not selected'.

In the light of this record, Sri G.Venkata Krishnaiah, learned counsel, would point out that the pending Articles of Charge cited against the respondent-applicant date back to the years 2014 and 2015 and it would therefore not be open to the authorities to fail to consider the candidature of the respondent-applicant in terms of G.O.Ms.No.257, General Administration (Ser.C) Department, dated 10.06.1999, issued by the Government of Andhra Pradesh laying down the guidelines to be followed by the authorities while dealing with the candidature of employees for further promotion, against whom disciplinary/criminal proceedings have been instituted.

We find merit in this submission.

The writ petition is accordingly allowed setting aside the direction of the Tribunal, *vide* its order dated 01.11.2016 passed in O.A.No.1670 of 2016. We make it clear that as and when promotions to the category of Deputy Range Officers in Kurnool Circle are taken up hereafter, the

candidature of the respondent-applicant shall also be considered in terms of the guidelines prescribed in G.O.Ms.No.257 dated 10.06.1999.

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: 04.12.2018
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