

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

WRIT PETITION NO.8937 OF 2015

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The State of Andhra Pradesh and its authorities in the Education Department filed this writ petition aggrieved by the order dated 10.09.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), in O.A.No.537 of 2013. The said O.A. was filed by the first respondent herein aggrieved by the action of the authorities in not considering his candidature for promotion in terms of the earlier order of the Tribunal in O.A.No.9426 of 2010. The petitioner was appointed as a Special Teacher on 19.12.1987 and was subsequently appointed on regular basis as a Secondary Grade Teacher on 12.04.1989. He was promoted as a Low Female Literacy (LFL) Headmaster on 15.09.2010. He joined the said post by accepting the promotion. After 15 days, he submitted an application seeking reversion from the promotional post on personal grounds. He was accordingly issued reversion order dated 30.09.2010 by the District Educational Officer, Prakasam. His grievance before the Tribunal was that his case had not been considered for promotion thereafter by the authorities holding to the effect that he had permanently relinquished his right of promotion.

The Tribunal took note of its earlier order in O.A.No.9426 of 2010 which was identical in nature and accordingly allowed the O.A. directing the authorities to consider the case of the first respondent-applicant for promotion to the post of LFL Headmaster in the next promotion counselling. The Tribunal also made it clear that he would not be entitled to claim seniority in the post of LFL Headmaster from 15.09.2010, the date on which

he was promoted earlier, but only from the date of his subsequent promotion in the ensuing counselling. Aggrieved by these directions, the State Authorities filed this writ petition.

By order dated 09.07.2015, this Court granted interim suspension of the order under challenge. W.V.M.P.No.594 of 2016 was filed by the first respondent to vacate the said order.

Learned Assistant Government Pleader for Services would state that the first respondent-applicant suffered the penalty of censure *vide* proceedings dated 08.01.2014 passed by the District Educational Officer, Prakasam, and therefore, he was not entitled to be considered for promotion. He would further submit that in terms of Rule 28 of the Andhra Pradesh State and Subordinate Service Rules, 1996 (*for brevity*, 'the Rules of 1996'), the Tribunal ought not to have granted relief to the first respondent.

Sri K.Raghavendra Venkatesh, learned counsel for the first respondent-applicant, would however state that this Court had occasion to consider the scope of Rule 28 of the Rules of 1996 in G.BOYANNA V/ s. REGISTRAR (ADMINISTRATION)¹ and held to the effect that relinquishment of a promotion in terms of the said Rule would not amount to a permanent relinquishment. He would point out that this Court specifically held therein that Rule 28 of the Rules of 1996 did not disentitle a member of the Service from being considered for promotion in a future vacancy merely because he relinquished his right for such promotion earlier. Learned counsel would further point out that even if the first respondent-applicant suffered the minor penalty of censure in the year 2014, it could have no impact on his candidature for further promotion at this late stage.

¹ 2009 (2) ALD 402 (DB)

We find merit in this submission. The minor penalty of censure would not be a disqualification for further promotion after this many years. Further, as the decision of this Court in G.BOYANNA V/ s. REGISTRAR (ADMINISTRATION)¹ squarely covered the issue in so far as Rule 28 of the Rules of 1996 is concerned, we find no merit in this writ petition.

Interim order dated 09.07.2015 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

19th SEPTEMBER, 2018

Sv

