

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.24877 of 2018

ORDER: (ORAL)

(Per Suresh Kumar Kait, J)

Vide the present writ petition, petitioner has assailed order dated 19.06.2018 passed in O.A.No.1149 of 2018 by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed with an observation that, assuming for a moment, for the sake of argument, that G.O.Ms.No.257 is applicable to a case of promotion where constitution of Departmental Promotion Committee is not expected, then the entire G.O. has to be applied; thus, the said G.O., is not applicable to the case of the petitioner.

2. Petitioner is working as Junior Assistant in the office of Commercial Tax Officer, Kavali Circle of Sri SPSR Nellore District. While he was on duty at Integrated Check-post, Bhimunivariapalem, Tada mandal, on 18.01.2004, along with other officers and staff, a surprise check was conducted by teams headed by Dy. Superintendent of Police, ACB, Nellore Range and it was found that there was collection of *mamools* ranging from Rs.20/- to Rs.200/- from the crew of vehicles plying through check-post and unaccounted amount of Rs.15,200/- was seized from the check-post. In that connection, common enquiry was ordered under Rule 24(1) of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 by way of G.O.Ms.No.169, Revenue (Vigilance-II) Department dated 15.05.2015.

Consequently, charge memo dated 15.05.2015 was issued by the respondents against the petitioner.

3. Learned counsel appearing on behalf of the petitioner submits that G.O.Ms.No.257 is applicable in the present case, however, the learned Tribunal has not considered the issue properly; therefore, the present petition deserves to be allowed, by setting aside the order passed by the Tribunal.

4. Learned Government Pleader for Services I (AP) appearing on behalf of the respondents has fairly conceded that G.O.Ms.No.257 dated 10.06.1999 is applicable in the case of the petitioner herein also.

5. In view of the submissions made by learned counsel for the parties, we hereby set aside the order dated 19.06.2018 passed in O.A.No.1149 of 2018 by the Andhra Pradesh Administrative Tribunal, Hyderabad. Consequently, respondents are directed to consider the case of the petitioner for promotion in terms of G.O.Ms.No.257 dated 10.06.1999.

6. Writ petition is allowed to the extent indicated above. No order as to costs.

As a sequel, miscellaneous petitions if any pending, stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

July 19, 2018

MRR

