

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

WRIT PETITION No. 28886 OF 2018

ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

The petitioner is the applicant in O.A.No.1542 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. His prayer therein was to consider his case for promotion to the post of Assistant Director of Town and Country Planning without reference to the charge memo issued vide G.O.Rt.No.91, Municipal Administration & Urban Development (Vig.I) Department, dated 15.02.2017. By order dated 02.08.2018, the Tribunal dismissed the O.A. Aggrieved thereby, he preferred the present writ petition.

2. Sri M.V.S.Sai Kumar, learned counsel for the petitioner, would state that G.O.Rt.No.91 dated 15.02.2017 was issued framing four charges against the petitioner and the enquiry in relation thereto is pending. Learned counsel would point out that G.O.Ms.No.257, General Administration (Ser.C) Department, dated 10.06.1999, would have application to the case on hand contrary to the view expressed by the Tribunal in the order under challenge.

3. Paragraph 3 of the order under challenge reflects that the Tribunal was of the opinion that the afore-stated Government Order would have no application as the charge

memo was not two years old. However, as rightly pointed out by Sri M.V.S.Sai Kumar, learned counsel for the petitioner, we find that the stipulation with regard to the expiry of two years for consideration of an employee for ad hoc promotion was stipulated in G.O.Ms.No.74, General Administration (Ser.C) Department, dated 24.02.1994, but the said G.O. was cancelled vide G.O.Ms.No.257 dated 10.06.1999.

4. The procedure and guidelines to be followed to consider the cases of employees against whom disciplinary proceedings or criminal prosecution are pending are set out in Para 5 of the G.O. The said guidelines do not require expiry of two years since initiation of the disciplinary proceedings as a condition precedent for consideration of the candidature of the employee concerned, who is facing disciplinary proceedings or criminal prosecution.

5. That being so, the conclusion of the Tribunal that G.O.Ms.No.257 dated 10.06.1999 had no application to the petitioner as the charge memo was not more than two years old is unsustainable.

6. The learned Government Pleader for Services (AP) would also concede that the case of the petitioner would have to be considered in terms of Para 5 of G.O.Ms.No.257 dated 10.06.1999.

7. On the above analysis, the Writ Petition is allowed setting aside the order dated 02.08.2018 passed by the Tribunal in O.A.No.1542 of 2018. There shall be a consequential direction to the respondents to consider the candidature of the petitioner for ad hoc promotion in accordance with the provisions of Para 5 of G.O.Ms.No.257 dated 10.06.1999 as and when such promotions are taken up.

8. 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: 21.08.2018
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**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE M.GANGA RAO**



WRIT PETITION No. 28886 OF 2018

21st day of August, 2018

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