

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.8351 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in not promoting the petitioner to the post of Chief Material Manager in the pay scale of Rs.17500-22500 with effect from 29.4.1997 on par with the adhoc promotee, as illegal and arbitrary, and consequently, to direct the respondents to promote the petitioner to the post of Chief Material Manager in the pay scale of Rs.17500-22500 with effect from 29.4.1997 with all consequential and attendant benefits, and further to direct recalculation of the voluntary Retirement benefits and pay the same along with interest including revision of pension.

2. Heard Sri P.B. Vijaya Kumar, learned Counsel for the petitioner and Sri Raghu Ram, learned Counsel for the respondents.

3. It is the case of the petitioner that he worked as Material Manager and while he was working as such, he was fully eligible and qualified to the next promotion post of Chief Material Manager. While so, the respondents issued a charge memo on 21.3.1995 to the petitioner on certain irregularities, for which the petitioner submitted his explanation on 31.3.1995 denying the charges. Being not satisfied with the explanation submitted by the petitioner, the

respondents ordered for domestic enquiry, and after completion of the enquiry, the enquiry officer submitted a report on 22.10.1996 holding that the charge leveled against the petitioner was not proved. The enquiry report was also furnished to the petitioner and the petitioner has also submitted his objections and thereafter, the disciplinary authority issued a dissent note on 20.12.1996 and furnished a copy of the same to the petitioner. The petitioner submitted a representation to the dissent note, on 7.1.1997. Thereafter, the disciplinary authority issued proceedings dated 15.2.1997 imposing penalty of withholding of two increments of the petitioner for a period of two years without cumulative effect. During the currency of punishment, the respondents have promoted ineligible candidate as Chief Material Manager, consequent upon the suspension of regular incumbent. By that time, the petitioner was fully eligible and qualified for promotion and therefore, the respondents ought to have considered the case of the petitioner. But the respondents allowed the adhoc promotee to continue till his superannuation. Aggrieved by the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contends that against the punishment imposed by the disciplinary authority, the petitioner preferred appeal before the appellate authority on 27.3.1997 and during the pendency of appeal, the petitioner obtained voluntary

retirement as a protest to the injustice caused to him, w.e.f. 4.8.2000. He further contends that after retirement, the appellate authority vide orders dated 4.9.2002 set aside the punishment of stoppage of two increments without cumulative effect, however, imposed minor penalty of censure, and now it is the grievance of the petitioner that on 29.4.1997, unqualified person was promoted as Chief Material Manager, even though the petitioner was fully eligible and qualified for promotion.

5. The learned Counsel appearing for the respondents contended that as the regular Chief Material Manager was placed under suspension, as in-charge only adhoc promotion was effected on 29.4.1997, and moreover, the person, who was promoted on adhoc promotion as Chief Material Manager, is admittedly senior to the petitioner, and therefore, no prejudice has been caused to the petitioner and this writ petition is liable to be dismissed.

6. This Court has considered the rival submissions made by the parties and perused the material available on record. The petitioner is only challenging the adhoc arrangement made in favour of one Ramaiah Naidu, who is admittedly senior to the petitioner. The respondents have not effected any regular promotions so as to determine the eligibility of the candidates. If the respondents undertook any such exercise for promotions, the case of the

petitioner would have been considered. In exigencies, anybody can be promoted on adhoc basis as stop gap arrangement. Therefore, it cannot be said that the case of the petitioner for adhoc promotion should be considered as per the recruitment rules. This Court is of the view that no legal rights have been infringed by the order of adhoc promotions. There are no merits in the writ petition.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

16th August, 2018
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(ABHINAND KUMAR SHAVILI, J)



THE HON'BLE SRI ABHINAND KUMAR SHAVILI



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