

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.36742 OF 2018

ORDER

With the consent of learned counsel on either side, the writ petition is disposed of at the admission stage.

This writ petition is filed seeking the following relief:

“..to issue writ, order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the 1st respondent in initiating the departmental action vide impugned Charge Memo issued vide G.O.Rt.No.1291, Health, Medical and Family Welfare Department, dated 20-09-2007 as illegal, arbitrary and contrary to law and consequentially this Hon'ble Court may be pleased to quash or set aside the impugned Charge Memo *vide* G.O.Rt.No.1291, dated 20-09-2007 for delay and laches in concluding the departmental proceedings and also without jurisdiction and consequently declaring that the petitioner is entitled for promotion as Office Superintendent in Zone-VI, following the proceedings Rc.No.2201/MS-ZV.VI/DPH/2018, dated 12.09.2018, and pass such other order or orders may deem fit and proper in the circumstances of the case.”

Heard Sri M.R.Tagore, learned counsel appearing for the petitioner, and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the petitioner that initially, he was appointed as Typist on 7.7.1990 on compassionate grounds in the office of the Director of Medical & Health, Nalgonda,

Later, he was promoted as Senior Assistant on 1.3.2002 and posted at PHC, Vemulakonda, and working as such in the office of the 3rd respondent in Zone-VI. As the petitioner was absented to his duties from 22.05.2007 to 27.05.2007, a charge memo dated 20-09-2007 was issued to him. The petitioner submitted his explanation denying the charges levelled against him. Thereafter, the respondents have appointed an enquiry officer, but, so far, neither the enquiry officer has submitted his report nor disciplinary proceedings were initiated against him.

The grievance of the petitioner is that though he is fully eligible and qualified to the post of Office Superintendent, his case was not considered for promotion on the premise of issuance of charge memo.

Learned counsel appearing for the petitioner submits that the case of the petitioner was not considered for promotion on the premise of pendency of disciplinary proceedings against him. He further submits that the State Government has issued G.O.Ms.No.257, dated 10-6-1999, according to which, the appointing authority can consider the case of the persons for promotion against whom disciplinary proceedings are pending.

Learned Government Pleader appearing for the respondents contends that since disciplinary proceedings are pending against the petitioner, his case was not considered for promotion.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if a direction is issued to the respondents to consider the case of the petitioner for promotion.

Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Office Superintendent strictly in terms of G.O.Ms.No.257, dated 10.06.1999, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

11th October, 2018
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