

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

WRIT PETITION No.37855 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the applicant in O.A.No.3135 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. His prayer therein reads as under:

“Application filed under Section 19 of the Administrative Tribunals Act, 1985 praying this Tribunal to call for the records relating to the impugned Charge Memos., issued by the Government in G.O.Rt.No.1390, MA & UD., dated 11-9-2013 and G.O.Rt.No.351, MA&UD., dated 20-5-2015 and G.O.Rt.No.408, MA&UD., dated 8-6-2017 and set-aside the same as being illegal, arbitrary, discriminatory, violative of Articles 14, 16 and 21 of the Constitution of India in view of either framing the charges or not concluding the same for years together and consequently direct the respondents to drop the disciplinary cases pending against him in the aforesaid Charge Memos., and consequently hold that the applicant is entitled for promotion to the post of Additional Director of Municipal Administration with effect from the date on which his immediate junior was considered for promotion.”

By order dated 11.12.2017, the Tribunal dismissed the O.A. Aggrieved thereby, the petitioner-applicant is before this Court.

Sri A.Sreedhar, learned counsel for the petitioner-applicant, would submit that though the prayer in the O.A. was couched in such a manner that it would give an impression that the petitioner only sought a consequential direction to consider his case for promotion after quashing of the three charge memos issued to him, his prayer for interim relief in the said O.A. was to consider his case for promotion during the pendency of the O.A.

Having perused the order under appeal, we are of the opinion that no cause was made out for quashing of the three charge memos and to that extent the Tribunal was fully justified in dismissing the O.A. However, it may be noted that the Government of Andhra Pradesh, *vide* G.O.Ms.No.257, General Administration (Ser.C) Department, dated 10.06.1999, stipulated guidelines to be followed by the authorities while considering the candidature of employees who were facing either disciplinary or criminal proceedings for further promotion. It is therefore for the authorities concerned to abide by the said guidelines and implement them on a case-to-case basis. The Tribunal was not justified in stepping into the shoes of the authorities and deciding that the petitioner's case did not warrant consideration under G.O.Ms.No.257 dated 10.06.1999. It is for the authorities to examine the candidature of the petitioner in the context of the guidelines stipulated in the said G.O. and take a decision.

The writ petition is accordingly allowed to the extent of directing the authorities concerned to consider the case of the petitioner-applicant for further promotion in accordance with the guidelines stipulated in G.O.Ms.No.257 dated 10.06.1999 as and when promotions to the posts of Additional Director of Municipal Administration are taken up.

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: 22.10.2018
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