

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.66 of 2019

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of respondents in not considering the case of petitioner for promotion to the post of Junior Accounts Officer (Category-II) while considering the juniors of the petitioner on the sole ground that disciplinary proceedings are pending against the petitioner vide charge Memos in G.O.Rt.Nos.507, 513 and 520 dated 21.07.2016 and G.O.Rt.No.527 dated 23.07.2016 issued by the 2nd respondent, as void, illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution of India and sought a consequential direction to the 1st respondent to consider the case of the petitioner for promotion to the post of Junior Accounts Officer (Category-II) without reference to pendency of disciplinary proceedings.

Heard Mr.S.Jagadish, learned counsel for petitioner and the learned Government Pleader for Services-II.

It has been contended by the petitioner that he was appointed as Senior Accountant on 27.06.2013 in pursuance of direct recruitment and while he was discharging his duties at Suryapet Municipality, the 2nd respondent had issued charge memos vide G.O.Rt.Nos.507, 513 and 520 dated 21.07.2016 and G.O.Rt.No.527 dated 23.07.2016 for certain allegations relating to the financial year 2013-14.

Learned counsel for petitioner submits that the petitioner has been falsely implicated and disciplinary proceedings have been initiated and the petitioner has submitted explanation denying the

charges levelled against him. He further submits that the petitioner is fully eligible and qualified for promotion to the post of Junior Accounts Officer (Category-II), but the respondents are not considering his case only on the ground that disciplinary proceedings are pending against the petitioner. He further submits that appropriate orders be passed directing the respondents to consider the case of petitioner for promotion to the post of Junior Accounts Officer (Category-II) in accordance with Rules, without referring to charge Memos, which were issued way back in the year 2016 and it is for the almost more than two years, the respondents are neither concluding the disciplinary proceedings nor considering the case of petitioner for promotion.

Learned Government Pleader appearing for respondents contended that serious allegations of financial irregularities have been alleged against the petitioner and the 2nd respondent had issued charge memos against the petitioner and the disciplinary proceedings are pending against the petitioner and therefore, the question of considering the case of petitioner for promotion to the post of Junior Accounts Officer (Category-II) does not arise. There are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the 2nd respondent had issued G.O.Ms.No.257 dated 10.06.1999, whereunder certain guidelines were framed for considering the cases of employees against whom disciplinary proceedings are pending or whose conduct is under investigation. The right to be considered for promotion is a right guaranteed

under the Constitution of India. Therefore, the case of the petitioner has to be considered for promotion to the post of Junior Accounts Officer (Category-II), however, subject to the guidelines framed in G.O.Ms.No.257 dated 10.06.1999.

Therefore, the writ petition is disposed of directing the respondents to consider the case of petitioner for promotion to the post of Junior Accounts Officer (Category-II) in accordance with the guidelines framed in G.O.Ms.No.257 dated 10.06.1999 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

03-01-2019
Prv

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