

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.1486 of 2019

ORDER

This writ petition is filed seeking the following relief:

“...to issue a Writ, Order or direction more in the nature of Mandamus declaring action of the respondents in not sanctioning the Special Grade Increments on completion of eight years service in the cadre of Office Subordinate from 01.04.2007 onwards and on completion of six years service in the cadre of Record Assistant from 01.09.2014 onwards on par with similarly situated candidates and also not granting Annual Grade Increment on 01.01.2015 and not releasing the earned leave encashment in spite of representation made by the petitioner to the respondents on 20.12. 2016 and 23.08.2017 is arbitrary, illegal, unjust, violation of Articles 14 and 21 of the Constitution of India and consequentially declare that the petitioner is eligible to the Special Grade Increments on completion of eight years service in the cadre of Office Subordinate from 01.04.2007 onwards and on completion of six years service in the cadre of Record Assistant from 01.09.2014 onwards and eligible for Annual Grade Increment on 01.01.2015 and the earned leave encashment and to pass such other order or orders as this Hon'ble Court may deems fit, just and proper in the circumstances of the case.”

Heard Sri C.Raja Sekhar Reddy, 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 Village Revenue Officer on 4.6.2008. Since he was fully qualified and eligible to be promoted as Senior

Assistant, the respondents have given promotion to him vide proceedings dated 27.07.2017. Due to his health problems, the petitioner has relinquished the promotion. But, the respondents are not considering his case for promotion in the subsequent panel years on the ground that he has relinquished his promotion in the year 2017. The petitioner requested the respondents to consider his case for promotion to the post of Senior Assistant, but the respondents have rejected the same vide impugned Memo dated 22.01.2019. As per Rule 28 of the A.P.State and Sub-ordinate Service Rules, 1996 (Telangana Adoption Order 2016), he is entitled for promotion to the post of Senior Assistant.

Learned counsel appearing for the petitioner submits that similar issue fell for consideration before the Division Bench of this Court in W.P.No.24609 of 2007 and W.P.No.30927 of 2016 and this Court disposed of the said writ petitions vide orders dated 30-10-2008 and 16.09.2016, wherein it was held that the respondents cannot treat the relinquishment as permanent in nature and cases of the employees have to be considered in the subsequent panel years and that appropriate orders be passed by setting aside the impugned rejection Memo dated 22.01.2019, directing the respondents to consider the case of the petitioner for

promotion to the post of Senior Assistant in the existing future vacancies.

Learned Government Pleader appearing for the respondents contends that the petitioner himself has given a representation to consider his case for promotion in the next year and the case of the petitioner would be considered in accordance with law.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the impugned rejection Memo dated 22.01.2019 is contrary to the law laid down by this Court in W.P.No.24609 of 2007 and 30927 of 2016 and the same is liable to be set aside.

Accordingly, the impugned rejection Memo dated 22.1.2019 is set aside and the Writ Petition is allowed. The respondents are directed to consider the case of the petitioner as and when they effect promotions to the post of Senior Assistant. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

29th January, 2019
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