

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.2804 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“.....to issue an order or direction more particularly one in the nature of WRIT OF MANDAMUS

(a) declare the action of the respondents in continuing the disciplinary proceedings issued in Memo No 8118/ TW-Ser-II-2/ 2005 dated 05.10.2005 is arbitrary, illegal and improper and vitiated on the ground of inordinate and unexplained delay apart from being in violation of Articles 14 and 16 of the Constitution of India

(b) direct the respondents 1 and 2 to drop further action against the petitioner as was done in the case of other officials who are subjected to disciplinary proceedings along with the petitioner in pursuance to Charge Memo dated 5.10.2005 of the 1st respondent

(c) and further direct the respondents 1 and 2 to review and consider the case of the petitioner for notional promotion as Senior Medical Officer for the panel year 2006-2007 and subsequent panel year with all consequential benefits including seniority, pay fixation and also review and consider the case of the petitioner for promotion to the post of CMO's/ RDD's/ Chief Superintendent for the Panel year 2017-18 with all consequential benefits including seniority, pay fixation etc....”.

Heard Mr.K.S.V.Subba Rao, learned counsel for petitioner and the learned Government Pleader for Services-II.

It has been contended by the petitioner that he is working as Senior Medical Officer with the respondents. While he was working as Medical Officer during the year 2005, he was deputed to the Tribal Welfare Department as Assistant Project Officer. While discharging his duties as Assistant Project Officer, the respondents have issued Charge Memo dated 05.10.2005. The petitioner has submitted an explanation and the matter was referred to the

Commissioner of Enquiries. Similar charge Memos were also issued against the Chairman of Purchase Committee and several other individuals. At that point of time, the petitioner was one of the members of the Purchase Committee. The Commissioner of Enquiries, after conducting enquiry, has submitted a report. Thereafter, the Government has imposed punishment of censure on the Chairman of the Purchase Committee. The Chairman of the Purchase Committee has preferred review against the said punishment order and the Government vide G.O.Rt.No.889 dated 09.12.2009 was pleased to set aside the order of censure and dropped further action against the Chairman of the Purchase Committee.

The grievance of petitioner is that though identical charges were levelled against the petitioner vide Charge Memo dated 05.10.2005, the respondents are not concluding the disciplinary proceedings though they have been initiated 14 years back.

Learned counsel for petitioner submits that in respect of other members of the Purchase Committee, the Government has issued G.O.Rt.No.946, dated 12.11.2010 dropping further action against one K.V.Subba Reddy and also Memo No.6990/Plg.Vig/05-9 dated 09.01.2009 warning one Si B.Siva Raju to be more careful in future. However, the case of the petitioner was not considered and he was denied promotion to the post of Senior Medical Officer for the panel year 2006-07 due to pendency of Charge Memo dated 05.10.2005. The petitioner was given promotion as Senior Medical Officer, belatedly i.e., during the year 2013.

Learned counsel for petitioner submits that appropriate orders be passed in the writ petition directing the respondents to conclude disciplinary proceedings initiated against the petitioner within a reasonable period of time or in the alternative set aside charge Memo dated 05.10.2005 on the ground of delay and laches.

Learned Government Pleader appearing for the respondents has contended that the case of the petitioner will be examined and disciplinary proceedings would be concluded within a period of three months.

This Court, having considered the rival submissions made by parties, is of the considered view that the writ petition can be disposed of directing the respondents to conclude disciplinary proceedings initiated against the petitioner vide Charge Memo dated 05.10.2005 by duly taking into consideration G.O.Rt.No.889 dated 09.12.2009, G.O.Rt.No.946, dated 12.11.2010 and Memo No.6990/Plg.Vig/05-9 dated 09.01.2009 and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

With the above observations, the writ petition is accordingly disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

14-02-2019
Prv

