

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3249 of 2019

ORDER :

This writ petition is filed seeking Writ of Mandamus declaring that the petitioner is entitled to be considered and promoted as Prohibition and Excise Superintendent from the feeder category of Assistant Prohibition and Excise Superintendent without reference to the disciplinary proceedings pending vide Memo No.50100/Vig.V(1)/2008-09, dated 07.08.2013 read with the proceedings Cr.No.26/2008/CPE/SR-I, dated 30.08.2014 and also on the strength of proposal of notional seniority in the cadre of Prohibition and Excise Inspector dated 02.02.2018 with all consequential benefits duly holding the action of the respondents in not considering the claim of the petitioner for promotion to the post of Prohibition and Excise Superintendent from the feeder category of Assistant Prohibition and Excise Superintendent on the ground of pendency of aforementioned disciplinary proceedings, as being arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution of India.

Heard Sri D. Linga Rao, learned counsel for the petitioner and the learned Government Pleader for Services.

Learned counsel for the petitioner contends that though the petitioner is working as Assistant Prohibition and Excise Superintendent and fully eligible and qualified for promotion to

the post of Prohibition and Excise Superintendent, the respondents are not considering his case for promotion to the said post on the ground of pendency of disciplinary proceedings vide Memo No.50100/Vig.V(1)/2008-09, dated 07.08.2013 read with the proceedings Cr.No.26/2008/CPE/SR-I, dated 30.08.2014 against him.

Learned counsel for the petitioner further contends that the State Government has issued G.O.Ms.No.257, dated 10.06.1999, wherein the State Government formulated certain guidelines in respect of the employees against whom disciplinary proceedings or criminal proceedings are pending and their suitability for the next promotional avenues and as per the said G.O., the competent authority must consider the cases of the employees against whom disciplinary proceedings are pending and pass orders as to whether the charges levelled against the said employees are involving moral turpitude or misappropriation of funds and whether they are fit for next promotion, inspite of pendency of disciplinary proceedings against them.

Learned counsel for the petitioner contends that in the instant case, the appointing authority has not examined the case of the petitioner in terms of the guidelines formulated in G.O.Ms.No.257, dated 10.06.1999 and mechanically not considering the case of the petitioner for promotion to the post of Prohibition and Excise Superintendent. Therefore, the

learned counsel contends that appropriate orders be passed in the writ petition directing the respondents to examine the case of the petitioner in terms of the guidelines formulated in G.O.Ms.No.257, dated 10.06.1999 and pass appropriate orders.

On the other hand, the learned Government Pleader for Services contends that the case of the petitioner will be considered and appropriate orders would be passed in terms of the guidelines formulated in G.O.Ms.No.257, dated 10.06.1999.

This Court, having considered the rival submissions of the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Prohibition and Excise Superintendent strictly in terms of G.O.Ms.No.257, dated 10.06.1999 and pass appropriate orders in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order.

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

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

19.02.2019.
Msr

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