

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4665 OF 2019

ORDER:

This writ petition is filed seeking the following relief:

“... to issue an appropriate Writ, direction, or order, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents not considering the case of the petitioner for promotion to the post of Office Superintendent from the post of Senior Assistant without reference to the FIR.No.2/RCO-HR/2016, under Section 13(1) (d), read with 13(2) of P.C.Act, 1988, 471 of I.P.C, on the file of P.S., A.C.B., Hyderabad Range, dated 01.04.2016, in terms of orders issued in G.O.Ms.No.66, General Administration (Services.C) Department, dated 31-01-1991, is highly illegal and unjustified with a direction to the respondents to consider the case of the petitioner for promotion to the post of Office Superintendent from the post of Senior Assistant without reference to the FIR.No.2/RCO-HR/2016, under Section 13(1) (d), read with 13(2) of P.C.Act, 1988, 471 of I.P.C, on the file of P.S., A.C.B., Hyderabad Range, dated 01.04.2016, in terms of orders issued in G.O.Ms.No.66, General Administration (Services.C) Department, dated 31-01-1991 and analogy of orders granted by this Hon'ble Court similar cases and promote the petitioner with all consequential benefits and pass such other or further order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri M.V.S. Sai Kumar, learned counsel appearing for the petitioner and learned Government Pleader for Agriculture.

It is the case of the petitioner that he is working as Senior Assistant, Office of Horticulture and Sericulture Department, Public Gardens, Nampally, Hyderabad, and that though he is eligible for promotion to the post of Office Superintendent from the post of Senior Assistant, the respondents are not considering his case on the premise that a case in FIR.No.2/RCO-HR/2016, under Section 13(1) (d), read with 13(2) of Prevention of Corruption Act, 1988, 471 of I.P.C, on the file of P.S., A.C.B., Hyderabad Range, dated 01.04.2016 is pending against him.

Learned counsel appearing for the petitioner contends that the State Government has taken a policy decision in terms of G.O.Ms.No.66, General Administration (Services.C) Department, dated 31-1-1999, wherein it was directed that in respect of the employees who are facing disciplinary proceedings and whose cases fall under the group referred in para 2 (iii) of the said GO, the promotion/appointment by transfer to the next higher post shall be deferred only when a charge of misconduct was framed by the competent authority and served on the delinquent officer concerned or a charge sheet has been filed against him in a criminal Court as the case may be. Learned counsel further contends that the State Government has taken a policy decision in G.O.Ms.No.257, dated 10.6.99, wherein it was directed to consider the case of the employees

against whom disciplinary proceedings are pending in accordance with the guidelines framed thereunder.

Learned Government Pleader for Agriculture contends that cases of the employees who are eligible for promotion will be considered in terms of G.O.Ms.No.257, dated 10.6.1999 and that appropriate orders will be passed by the appointing authority.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if a direction is given to the respondents to consider the case of the petitioner for promotion to the post of Office Superintendent.

Accordingly, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for promotion to the post of Office Superintendent strictly in terms of G.O.Ms.No.257, dated 10.6.1999, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

ABHINAND KUMAR SHAVILI, J

25.03.2019
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