

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.5318 of 2019

ORDER:

This writ petition is disposed of at the stage of admission with the consent of both the parties.

This writ petition is filed seeking the following relief :-

“.... to issue a Writ, order or direction, more particularly one in the nature of a Writ of Mandamus directing the respondents to issue the eligible promotion orders in favour of the petitioner for the post of Assistant from 05/07/2013 and then to the post of Superintendent from 04/08/2016 and to calculate the enhancing salary amount while paying the pension and gratuity before the date of retirement on 31/05/2019 in view of closure of vigilance case issued by the 2nd respondent by order dated 07/09/2017....”.

Heard Mr.Emani Sinivas, learned counsel for petitioner and Mr.K.Lakshman, learned Assistant Solicitor General for 3rd respondent.

It has been contended by the petitioner that he is working as UDC and he is fully eligible and qualified to be promoted as Assistant with effect from 05.07.2013 and Superintendent with effect from 04.08.2016, but the respondents are not considering his case for promotion as the Vigilance Case was pending against him. The Vigilance Case was closed by the 2nd respondent vide order dated 07.09.2017. In view of closure of Vigilance Case, he is entitled for promotion to the post of Assistant with effect from 05.07.2013 and further promotion to the post of Superintendent with effect from 04.08.2016.

Learned counsel for the petitioner has contended that the petitioner is going to retire on 31.05.2019 and if the case of the

petitioner is not considered for promotion, great injustice would be caused to the petitioner. Therefore, appropriate orders may be passed directing the respondents to consider the case of the petitioner for promotion to the post of Assistant with effect from 05.07.2013 and further promotion to the post of Superintendent with effect from 04.08.2016 by duly taking into account the closure of Vigilance Case by the 2nd respondent vide order dated 07.09.2017.

Learned Assistant Solicitor General has contended that the Rules have been changed and challenging the De-Notification of the Rules, the Union has filed W.P.No.22052 of 2017 and this Court granted interim suspension vide order dated 05.07.2017. In view of pendency of case, the matter is *sub judice*. But, however, in paras 5 and 6 of the counter affidavit, it is contended that the case of the petitioner for promotion to the post of Assistant and further promotion to the post of Superintendent would be placed before the DPC for consideration.

This Court, having considered the rival submissions, 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 Assistant and further promotion to the post of Superintendent by duly placing his case before DPC before he attains the age of superannuation.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 24-04-2019
Prv

