

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7210 of 2019

ORDER:

This Writ Petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon’ble Court may be pleased 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 Joint Director of Horticulture from the post of Deputy Director of Horticulture without reference to the FIR.No.3/ACB-WKH/2016, under Section 7, 13(2) R/w 13(1)(d) of P.C. Act, 1988, on the file of, ACB Khammam, Warangal Range, dated 09.03.2016, 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 Joint Director of Horticulture from the post of Deputy Director of Horticulture without reference to the FIR.No.3/ACB-2KH/2016, under Section 7, 13(2) R/w 13(1)(d) of P.C. Act 1988, on the file of, A.C.B. Khammam, Warangal Range, dated 09.03.2016, 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 petitioners with all consequential benefits.”

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 Deputy Director of Horticulture, Office of Director of Horticulture, Hyderabad, and that though he is eligible for promotion to the

post of Joint Director of Horticulture, the respondents are not considering his case on the premise that FIR.No.3/ACB-WKH/2016 registered for the offence punishable under Sections 7 and 13(2) of Prevention of Corruption of Act, 1988, read with Section 13(1)(d) thereof 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 30-1-1991, 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 G.O.Ms.No.424, General Administration (Services.C) Department, dated 25.05.1976, 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 issued G.O.Ms.No.257 dated 10.06.1999 directing the authorities concerned to consider the cases 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 10.06.1999 and 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 Joint Director of Horticulture.

Accordingly, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for promotion to the post of Joint Director of Horticulture strictly in terms of G.O.Ms.No.257, dated 10.06.1999 and also G.O.Ms.No.66, dated 31.01.1991 and pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

Consequently, Miscellaneous Petitions, if any pending, shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

4th APRIL, 2019.

kvni