

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.15368 of 2005

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the impugned action of respondents in not granting promotion to the post of Grade-I Driver with effect from 01.07.1995 as arbitrary, illegal and against the principles of natural justice and violative of Articles 14, 15 and 16 of the Constitution of India and sought a consequential direction to the respondents to grant promotion to the petitioner to the post of Grade-I Driver with effect from 01.07.1995 on par with the juniors with all consequential benefits.

2. Heard Sri M.M.Ali, learned counsel for the petitioner and Sri N.Vasudeva Reddy, learned Standing Counsel for the respondents.

3. It has been contended by the petitioner that he was initially appointed as Grade-II Driver with the respondents on 10.04.1980 in Medak District and he has been discharging his duties to the utmost satisfaction of his superiors and every one concerned. The petitioner further contends that during August, 1995, he had requested to be transferred from Medak District to Ranga Reddy District and the respondents, acceding to his request, has transferred the petitioner from Medak District to Ranga Reddy District and he has reported to duty in Ranga Reddy District on 02.08.1995. The petitioner contends that at the time of transferring from Medak District to Ranga Reddy District, he has given an undertaking that he will forego his seniority

and other benefits in the newly transferred District and to take last rank among the drivers in Ranga Reddy District. The petitioner contends that while he was discharging his duties, the respondents have promoted many of his juniors as Grade-I Drivers vide proceedings, dated 18.04.1996, and given effect to such promotions with effect from 01.07.1995. The petitioner contends that as on 01.07.1995 he was discharging his duties in Medak District and he was entitled for promotion to the post of Grade-I Driver, as he was transferred from Medak District to Ranga Reddy District on 02.08.1995 itself. Therefore, learned counsel for the petitioner submits that the crucial date being 01.07.1995 and on the said crucial date as the petitioner was discharging his duties in Medak District, he is also entitled for notional promotion as Grade-I Driver.

4. Learned counsel for the petitioner submits that the petitioner has submitted a representation, dated 06.11.2003, to the respondents to consider his case for granting notional promotion with effect from 01.07.1995, as was done in case of several other juniors. But, so far the respondents have not passed any orders on the said representation nor considered the case of the petitioner for promotion to the post of Grade-I driver with effect from 01.07.1995. Therefore, learned counsel for the petitioner would submit that appropriate orders be passed in the writ petition directing the respondents to consider the representation, dated 06.11.2003, and pass appropriate orders in accordance with law.

5. Learned Standing Counsel appearing for the respondents had contended that the petitioner has been transferred from Medak District to Ranga Reddy District on his own request and whenever an employee is transferred on his own request, he is not entitled for seniority and other benefits. Since the petitioner was already transferred to Ranga Reddy district in August, 1995, he cannot claim any promotion in the Medak District.

6. Learned Standing Counsel further contends that during 2000, the petitioner has again requested the respondents to transfer him to Medak District from Ranga Reddy District. The request of the petitioner was again accepted with a condition that he will forego his seniority in the newly joined Medak District. Therefore, the petitioner's case cannot be considered, as he has already given an undertaking that he will not claim any seniority in Medak District. There are no merits in the writ petition and it is liable to be dismissed.

7. This Court, having considered the rival submissions of the learned counsel for respective parties, is of the considered view that the crucial date on which many of his juniors were promoted is 01.07.1995. If the petitioner is in service in Medak District as on 01.07.1995, the case of the petitioner deserves to be considered for promotion to the post of Grade-I Driver on par with juniors.

8. With the above observation, the writ petition is disposed of directing the 2nd respondent to consider the representation submitted by the petitioner, dated 06.11.2003, and pass appropriate orders, in

accordance with law, within eight weeks from the date of receipt of a copy of this order.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

ABHINAND KUMAR SHAVILI, J

9th September 2019

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