

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WP(TR) No.5727 & 32714 OF 2017

COMMON ORDER :

Since the subject matter in both these writ petitions is one and same, they are heard together and being disposed of by this common order at the admission stage with the consent of both the parties.

WP (TR).No.5727 of 2017 is filed by the petitioner challenging the punishment order dt.04.03.2016 wherein the 1st respondent imposed the punishment of reduction of pay to the minimum basic till the date of superannuation and with effect on pension also; W.P.No.32714 of 2017 is filed by the petitioner challenging the action of the respondents in not promoting the petitioner to the post of Forest Section Officer on the ground that punishment has been imposed on the petitioner.

Heard Sri P.V.Ramana, learned counsel for the petitioner and learned Government Pleader for Services-I.

It has been contended by the petitioner that while the petitioner was working as a Forest Beat Officer, he was placed under suspension on 28.10.2014 on certain irregularities. Thereafter, the disciplinary authority had issued a Charge Memo dt.26.10.2018 alleging that the petitioner has misused his official position and created certain fake documents leading to illegal encroachment of forest land. Thereafter, the disciplinary authority, after conducting enquiry, without giving an opportunity to the petitioner had imposed a punishment of reduction of pay to the minimum basic till the date of superannuation and with effect on pension also.

Learned counsel for the petitioner contends that the punishment of reduction of pay to the minimum basic till the date of superannuation and with effect on pension was not contemplated under A.P.C.S & CCA Rules (for short 'the Rules) and imposing such a punishment is not permissible as per the Rules. The learned counsel further submits that the petitioner had submitted a representation to the disciplinary authority seeking change of enquiry officer stating that the said enquiry officer was biased against the petitioner. But the said request of the petitioner was not considered and the same enquiry officer, who is biased against the petitioner, had conducted enquiry. He further contends that in the Charge Memo, in all, though eight witnesses were quoted, enquiry officer has not examined any of those witnesses and gave a final report alleging that the charges levelled against the petitioner were proved and basing on such report, the disciplinary authority had imposed the above said punishment, which is not contemplated under Rules. Therefore, challenging the said punishment order, the petitioner had approached the then Andhra Pradesh Administrative Tribunal and the Tribunal was pleased to suspend the impugned punishment vide order dt.24.03.2016 in O.A.No.1107 of 2016. Subsequently, as the Tribunal for the State of Telangana was not established, the said O.A. was transferred to the High Court and the same is numbered as WP (TR).No.5727 of 2017. The learned counsel would further submit that since the punishment imposed by the disciplinary authority against the petitioner was illegal, the same is liable to be set aside, as it is contrary to the Rules and because of the said illegal punishment, the case of the petitioner is not being

considered for promotion to the post of Forest Section Officer. Therefore, the counsel for the petitioner submits that appropriate orders be passed by setting aside the punishment order dt.04.03.2016 and also sought a further direction to the respondents to consider the case of the petitioner for promotion to the post of Forest Section Officer.

Learned Government Pleader appearing for the respondents submits that every opportunity was given to the petitioner while conducting enquiry and the disciplinary authority after examining the enquiry report and after communicating the said report to the petitioner had imposed the punishment, which is commensurate with the charges levelled against the petitioner.

This Court, having considered the rival submissions of learned counsel for the respective parties, is of the considered view that since there is a right of appeal against the impugned punishment order dt.04.03.2016 and as the petitioner had not availed the said remedy of statutory appeal, this Court is of the view that ends of justice would be met if the petitioner is permitted to prefer an appeal to the appellate authority by raising all the legal issues available under law, within two weeks from the date of receipt of copy of this order and on such appeal being filed, the appellate authority shall consider the said appeal and pass appropriate orders in accordance with law, within a period of six weeks from the date of filing of such appeal. It is needless to say that the period of limitation in respect of preferring an appeal may not be insisted by the appellate authority.

As far as W.P.No.32714 of 2017 is concerned, the respondents are directed to consider the case of the petitioner for

promotion to the post of Forest Section Officer strictly in terms of G.O.Ms.No.257 dt.10.06.1999.

With the above observations, both the Writ Petition are disposed of. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 04.06.2019
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directing the petitioner to prefer an appeal within two weeks from the date of receipt of copy of this order challenging the punishment order dt.04.03.2016 and petitioner is permitted to raise all legal issues before the appellate authority and the appellate authority shall consider the appeal so preferred by the petitioner and pass appropriate orders within a period of six weeks from the date of receipt of copy of this order and