

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.12178 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“...to issue writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not considering the case of the petitioner for next promotion to the post of Municipal Commissioner Grade-II on the sole ground that the disciplinary proceedings are pending against the petitioner *vide* Charge Memo in G.O.Rt.No.305, dated 07.08.2015 issued by the 1st respondent as void, illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution of India and consequently direct the 1st respondent to consider the case of the petitioner for promotion/appointment by transfer to the post of Municipal Commissioner Grade-II without reference to pendency of disciplinary proceedings as per G.O.Ms.No.257, dated 20.06.1999 and pass such other order or orders may deem fit and proper in the circumstances of the case.”

Heard Sri S.Jagadish, learned counsel appearing for the petitioner and learned Government Pleader for Municipal Administration and Urban Development.

It is the case of the petitioner that he is working as Manager Category-I and that though he is eligible for promotion to the post of Municipal Commissioner Grade-II, the respondents are not considering his case on the premise of pendency of charge memo dated 07.08.2015 issued by the 1st respondent.

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 30-1-1999, 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 appearing for the respondents contends that case of the petitioner would be considered in terms of G.O.Ms.No.257, dated 10.6.1999 and appropriate orders would be passed.

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 Municipal Commissioner Grade-II.

Accordingly, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for promotion to the post of Municipal Commissioner Grade-II strictly in terms of G.O.Ms.No.257, dated 10.6.1999 and also G.O.Ms.No.66, dated 31.01.1991 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.

JUSTICE ABHINAND KUMAR SHAVILI

19th June, 2019
rkk