

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.23707 of 2019

ORDER

This Writ Petition is filed seeking the following relief:

“to issue an order or orders more particularly one in the nature of Writ of Mandamus to declare the action of the respondents in not considering the case of the petitioner for promotion to the post of Deputy Director of Tribal Welfare on the sole ground that the disciplinary proceedings are pending against the petitioner vide Charge Memo in Rc.No.K1/3473/2019 dated 18.08.2019 and Charge Memo in Rc.No.K1/2618/2019 dt 9.10.2019 (served on 21.10.2019) and CTW Memo Rc.No.11/5339/2015 dt 21.08.2019 of the 3rd respondent and as void, illegal and discriminatory and set aside the same and consequently direct the respondents to consider the case of the petitioner for promotion to the post of Deputy Director of Tribal Welfare without reference to pendency of disciplinary proceedings vide Charge Memo in Rc.No.K1/3473/2019 dated 18.08.2019 and Charge Memo in Rc.No. K1/2618/2019 dt 9.10.2019 (served on 21.10.2019) and CTW Memo Rc.No.11/5339/2015 dt 21.08.2019 of the 3rd respondent and to pass such other order or further orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri Bharat Shah, learned counsel appearing for the petitioner, learned Government Pleader for Tribal Welfare appearing for respondent Nos.1 and 3 and learned

Government Pleader for General Administration appearing for respondent No.2.

It is the case of the petitioner that he is working as District Tribal Development Officer and that though he is eligible for promotion to the post of Deputy Director of Tribal Welfare, the respondents are not considering his case on the premise that charge memo is pending against him.

Learned counsel appearing for the petitioner contended that the State Government has framed guidelines in G.O.Ms.No.257, dated 10.6.1999 to consider the cases of employees for promotion against whom disciplinary proceedings/criminal proceedings are pending. As per G.O.Ms.No.257, dated 10.6.1999, the competent authority must consider the cases of employees against whom disciplinary proceedings/criminal proceedings are pending and pass appropriate orders as to whether they are eligible for promotion. But, in the instant case, the respondents are not considering the case of petitioner for promotion to the post of Deputy Director of Tribal Welfare in terms of G.O.Ms.No.257, dated 10.6.1999. Therefore, appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Director of Tribal Welfare in terms of G.O.Ms.No.257, dated 10.6.1999.

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 this Writ Petition can be disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Director of Tribal Welfare in terms of G.O.Ms.No.257, dated 10.6.1999 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, pending, if any shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

30th October, 2019

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