

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.25419 OF 2019

ORDER

This writ petition is filed seeking the following relief:

“...to issue a writ in the nature of Mandamus or any other appropriate writ, order or direction by declaring the action of the respondents in not considering the case of the petitioner for promotion to the post of Executive Engineer on the ground that the Crime was registered against him though neither Charge Sheet nor Charge Memo was issued as illegal, arbitrary and unconstitutional being violative of Articles 14 and 16 of Constitution of India and consequently direct the respondents to consider the case of the petitioner for promotion to the post of Executive Engineer without reference to F.I.R in Cr.No.8/ACB-NLG/2016, u/secs 7 and 13(1)(d) r/w 13(2) of P.C.Act, 1988 dt 03.10.2016, in terms of G.O.Ms.No.66, General Administration (Services.C) Department dt 30.1.1991 and on the analogy of orders granted by this Hon'ble Court in similar cases and promote him as such with all consequential benefits and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri S.Gopal Rao, learned counsel appearing for the petitioner, learned Government Pleader for School Education appearing for respondent No.2 and Sri A.Yadava Reddy, learned Standing Counsel appearing for respondent No.1.

It is the case of the petitioner that he is working as In-charge Executive Engineer and that though he is eligible for promotion to the post of Executive Engineer, the respondents are not considering his case on the premise that a

case in Cr.No.8/ACB-NLG/2016 registered for the offence punishable under Sections 7 and 13 (1)(d) read with 13(2) of Prevention of Corruption Act, 1988, 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 30-01-1999, 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 10.06.1999, 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 respondents contends that case of the petitioner would be considered in terms of G.O.Ms.No.257, dated 10.06.1999 and that 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 Executive Engineer.

Accordingly, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for promotion to the post of Executive Engineer strictly in terms of G.O.Ms.No.257, dated 10.06.1999 and also G.O.No.66, dated 30.01.1991 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, pending, if any shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 19.11.2019

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