

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.27137 of 2019

ORDER:

This writ petition is being disposed of at the stage of admission with the consent of both the parties.

2. This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not promoting the petitioner as Senior Assistant in the existing vacancy with effect from the date of promotion of his junior who got promotion vide proceedings dated 18.11.2017 issued by the 3rd respondent, with all consequential benefits, despite judgment dated 01.04.2019, rendered by the Judicial Magistrate of First Class, Special Mobile Court, Khammam in C.C.No.128 of 2018, wherein, the petitioner was acquitted from the criminal charges, as arbitrary, illegal, discriminatory, unconstitutional and violative of Articles 14, 16 and 21 of the Constitution of India, and sought consequential direction directing the respondents, more particularly, the 3rd respondent to forthwith consider and promote the petitioner as Senior Assistant in the existing vacancy with effect from the date of promotion of petitioner's junior, who got promotion vide proceedings dated 18.11.2017 issued by the 3rd respondent, with all consequential benefits, taking into account the judgment dated 01.04.2019, rendered by the Judicial Magistrate of First Class, Special Mobile Court, Khamma, in C.C.No.128 of 2018.

3. Heard Sri P.V.Krishnaiah, counsel for petitioner and Government Pleader for Services-II, appearing for respondents.

4. It has been contended by the petitioner that he is working as a Junior Assistant and is fully eligible and qualified to be promoted to the post of Senior Assistant. The petitioner has further contended that during July 2017, a criminal case was filed against him in Crime No.162 of 2017 for the offences under Sections 3, 4 and 9(1) of the T.S. Gaming Act, 1974, and because of pendency of said criminal case, the case of petitioner was not considered for promotion to the post of Senior Assistant, but the case of petitioner's junior was considered for promotion vide proceedings dated 18.11.2017. Counsel for petitioner has contended that the competent Criminal Court i.e. Judicial Magistrate of First Class, Special Mobile Court, Khammam had tried the petitioner for the offences under the Telangana Gaming Act in C.C.No.128 of 2018 and acquitted the petitioner vide judgment dated 01.04.2019. Counsel for petitioner contended that the respondents have denied promotion to the petitioner because of pendency of the criminal case, and now that the said case ended in acquittal, the respondents are to re-examine the case of petitioner afresh and promote him in any existing vacancy of Senior Assistant on par with his junior. Therefore, counsel for petitioner contends that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for promotion to the post of Senior Assistant in the existing vacancy by duly taking into account the acquittal of petitioner by the competent criminal court in C.C.No.128 of 2018 vide judgment dated 01.04.2019, with all consequential benefits.

5. The Government Pleader contends that the case of petitioner was not considered for promotion in view of pendency of C.C.No.128 of 2018, and now that the petitioner was acquitted by the competent Criminal Court, the case of the petitioner for promotion to the post of Senior Assistant will be considered and appropriate orders would be passed in accordance with Rules.

6. This Court, having considered the rival submissions of the parties, hereby direct the petitioner to submit a representation afresh staking his claim for promotion to the post of Senior Assistant within two weeks from the date of receipt of a copy of this order, and upon such representation being received, the respondents shall consider the case of the petitioner for promotion to the post of Senior Assistant in the existing vacancy by duly taking into account the judgment dated 01.04.2019, rendered by the Judicial Magistrate of First Class, Special Mobile Court, Khammam in C.C.No.128 of 2018 and also consider the case of petitioner for promoting him notionally on par with his junior and pass appropriate orders in another Eight (08) weeks thereafter.

7. With these directions, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

13th December, 2019

ajr