

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION (TR) No.3562 of 2017

ORDER:

This writ petition is filed seeking the following relief :-

“.....to call for the records relating to Charge Memo Rc.No. D/ 383/ 09 dated 25.4.2009 and Rc.No.Cl (D) 383/ 2009 dated 15.5.2013 issued by the 3rd respondent and set aside the same as illegal, arbitrary, unjust, discriminatory and contrary to Article 14 of the Constitution of India and also declare the action of the respondents in not considering the case of the applicant for promotion to the post of Mandal Parishad Development Officer on the ground of pendency of disciplinary proceedings is illegal, arbitrary and contrary to Articles 14 and 16 of the Constitution of India and further direct the respondents to consider the case of the applicant for promotion to the post of Mandal Parishad Development Officer either on regular basis or on adhoc basis or on temporary basis without reference to the Charge Memo Rc.No.D/ 383/ 09 dated 25.4.2009 and Rc.No.Cl (D)383/ 2009 dated 15.5.2013 issued by the 3rd respondent...”.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondents.

Learned counsel appearing for the petitioner contends that the 3rd respondent has issued first charge memo on 25.04.2009 and second charge memo on 15.05.2013 alleging that the petitioner has recommended for payment of amount in favour of beneficiaries under Indiramma Housing Programme even though the beneficiaries have not constructed their houses and consequent upon his recommendation, the respondents have suffered huge loss. He further contends that though first charge memo was issued on 25.04.2009 and second charge memo was issued on 15.05.2013, so far, the respondents have not commenced any disciplinary proceedings against the petitioner by conducting regular

departmental enquiry and on the ground that the disciplinary proceedings are pending against the petitioner, the case of the petitioner is not being considered for promotion to the post of Mandal Parishad Development Officer.

He further contends that the issue whether the departmental proceedings can be continued even after a lapse of several years fell for consideration before this Court in *Government of A.P., Transport, Roads and Buildings Department and others*¹ and this Court held as follows:-

“Coming to the case on hand, it is to be noticed that the charge relates to the year 1998 and no steps were taken immediately on the subject-matter of the charge. Only pursuant to the complaint lodged against the Executive Engineer (Electrical) alone before the Upa-Lokayuktha, A.P., and basing on the ex-parte preliminary enquiry report, proceedings were initiated which were later dropped. Thereafter, regular departmental enquiry is conducted and on one ground or the other the enquiry officers were changed, which is admitted in the counter-affidavit, stating that delay is only on account of administrative reasons. Having regard to the nature of charge and the plea of delay, we are of the considered view that there is abnormal and unexplained delay on the part of the disciplinary authority in completing the enquiry and imposing punishment. Such an action is contrary to the judgments referred above apart from the executive instructions issued by the Government itself. Even for the said reason, the impugned order is liable to be set aside.”

Since there is an inordinate delay in concluding disciplinary proceedings initiated against the petitioner, the charge memos are liable to be set aside by following the judgment rendered by this Court, referred to supra.

¹ 2013 (4) ALT1 (DB)

Learned Government Pleader appearing for the respondents has contended that the respondents would conclude the disciplinary proceedings initiated against the petitioner within a reasonable period of time. Further, the case of the petitioner will also be considered for promotion to the post of Mandal Parishad Development Officer, as there is an inordinate delay in concluding disciplinary proceedings initiated against the petitioner.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the respondents to conclude the disciplinary proceedings initiated against the petitioner, pursuant to charge memos dated 25.04.2009 and 15.05.2013, within a period of three months from the date of receipt of a copy of this order, failing which, the impugned charge memos shall stand set aside on the ground of inordinate delay and laches and the respondents shall consider the case of the petitioner for promotion to the post of Mandal Parishad Development Officer without reference to charge memos dated 25.04.2009 and 15.05.2013.

With the above observations, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 11-12-2019
Prv

