

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.37027 of 2018

ORDER

This Writ Petition is filed seeking the following relief:

“to issue a writ, order or direction, more particularly in the nature of Writ of Mandamus declaring the action of the third respondent in issuing impugned speaking order in Rc.No.4706/2016/M4,dated25.09.2018 rejecting the request of the petitioner for promotion to the post of Deputy Range Officer as arbitrary, illegal and set aside the same and consequently direct the respondents to promote the petitioner to the post of Deputy Range Officer in terms of G.O.Ms.No.257, GA (Ser.C) Department, dated 10.06.1999 and pass such other order or orders as this Hon’ble Court may deem fit and proper in the interest of natural justice.”

Heard Sri G.Raman Goud, learned counsel appearing for the petitioner, and learned Government Pleader for Services-I appearing for the respondents.

It is the case of the petitioner that he joined in the Forest Department as Forest Section Officer/Forester. He is eligible for promotion to the post of Deputy Range Officer. But the respondents are not considering his case for promotion on the ground of pendency of charge memo dated 13.2.2017. When the respondents are not considering his case, he filed W.P.No.19217 of 2018 before this Court and the same

was dismissed on 18.6.2018. Aggrieved by the said order, he preferred W.A.No.882 of 2018 before Division Bench of this Court and the same was allowed vide order dated 06.08.2018 by directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Range Officer in terms of G.O.Ms.No.257, dated 10.06.1999. Thereafter, the respondents have passed a speaking order dated 25.09.2018 rejecting the case of the petitioner. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that as the Division Bench in W.A.No.882 of 2018 directed the respondents to consider the case of the petitioner for promotion in terms of G.O.Ms.No.257, dated 10.06.1999, the respondents ought to have examined whether the petitioner had involved in a case of moral turpitude/embezzlement of funds/derelection of duty or not. But in the instant case, the appointing authority has not considered the case of the petitioner in terms of G.O.Ms.No.257, dated 10.06.1999. Learned counsel further submits that in the last paragraph of the rejection orders, though it is stated that the case of the petitioner for promotion to the post of Deputy Range Officer was considered, but after thorough scrutiny in terms of G.O.Ms.No.257, dated 10.06.1999, it was rejected, the

respondents have never considered his case at all. Learned counsel further submits that since the impugned rejection order is passed without application of mind and not in terms of the guidelines issued by the State Government in G.O.Ms.No.257, dated 10.06.1999, and since it is only a speaking order, the same is liable to be set aside. It is prayed that appropriate orders be passed directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Range Officer strictly in terms of the guidelines framed in G.O.Ms.No.257, dated 10.06.1999.

Learned Government Pleader appearing for the respondents contended that the appointing authority had passed the impugned rejection order based on the instructions of the superior officers and also based upon the report of the State Vigilance and Enforcement Department dated 21.06.2016 and the gravity of the charge was also considered by the appointing authority. It is further contended that after careful consideration of the entire record, the appointing authority came to the conclusion that the case of the petitioner cannot be considered for promotion to the post of Deputy Range Officer and that there are no merits in the writ petition and the same is liable to be dismissed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that the appointing authority has not considered the case of the petitioner in terms of G.O.Ms.No.257, dated 10.06.1999. The appointing authority ought to have considered the case of the petitioner in respect of the charges levelled against him and examined his case as to whether the charge contains any moral turpitude/embezzlement of funds/dereliction of duty, and then decided as to whether the case of the petitioner can be considered for promotion or not. But, in the instant case, in the last paragraph of the impugned rejection order, it is stated that the case of the petitioner was considered and after thorough scrutiny, rejected in terms of the guidelines issued by the State Government in G.O.Ms.No.257, dated 10.06.1999. But, the appointing authority has not considered the case of the petitioner in terms of G.O.Ms.No.257, dated 10.06.1999. Hence, the impugned rejection order is set aside.

Accordingly, the Writ Petition is allowed and the impugned rejection order dated 25.09.2018 is set aside. The respondents are directed to consider the case of the petitioner strictly in terms of G.O.Ms.No.257, dated 10.06.1999 and pass appropriate orders within a period of six

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

1st August, 2019

rkk

