

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.35085 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking a writ of mandamus to declare the action of the respondents in not concluding the departmental enquiry in spite of the fact that the same is concluded on 24.11.2015 as arbitrary, illegal, unconstitutional and violative of Articles 14, 16 & 21 of the Constitution of India and to declare that the action of the respondents in ignoring the case of the petitioner for promotion to the post of Office Superintendent, which is a non-selection post and promoting more than 25 juniors as wholly illegal, arbitrary, unconstitutional and violative of Articles 14, 16 & 21 of the Constitution of India and sought a consequential direction to consider the case of the petitioner for promotion to the post of Office Superintendent with effect from the date his immediate junior was promoted, with all consequential benefits.

2. Heard Sri Pratap Narayan Sanghi, Counsel for the petitioner and the Government Pleader for Services-I for the respondents.

3. It has been contended by the petitioner that he was appointed as Junior Assistant on 10.08.1988 and he was promoted as Senior Assistant on 31.12.2005 and that he is fully eligible and qualified to be promoted to the post of Office Superintendent.

4. The grievance of the petitioner is that the respondents are not considering his case for promotion to the post of Office Superintendent on the ground that the departmental enquiry against the petitioner is still pending. The petitioner further contended that

disciplinary proceedings were initiated against him on 26.10.2013 and in spite of more than six (06) years, the respondents are not concluding the departmental enquiry and the respondents are also not considering the case of the petitioner for promotion to the next higher post. The petitioner further contends that the State Government has taken a policy decision in G.O.Ms.No.257, GAD, dated 10.06.1999, wherein elaborate guidelines were framed by the State Government in respect of cases as to whether employees who were facing disciplinary proceedings and criminal proceedings are entitled for promotion or not.

5. Counsel for the petitioner contended that the appointing authority must consider each case independently in terms of the guidelines framed by the State Government and pass orders as to whether an employee is entitled for further promotion or not, but in the instant case, the respondents have not considered the case of the petitioner in terms of the guidelines framed by the State Government and 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 Office Superintendent strictly in terms of the guidelines framed by the State Government in G.O.Ms.No.257, GAD, dated 10.06.1999.

6. The Government Pleader appearing for the respondents had contended that the case of the petitioner would be considered in terms of the guidelines framed by the State Government and appropriate orders would be passed.

7. This Court, having considered the rival submissions made, is of the considered 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 Office Superintendent strictly in terms of the G.O.Ms.No.257, GAD, dated 10.06.1999, and pass appropriate orders within a period of six (06) weeks from the date of receipt of a copy of this order.

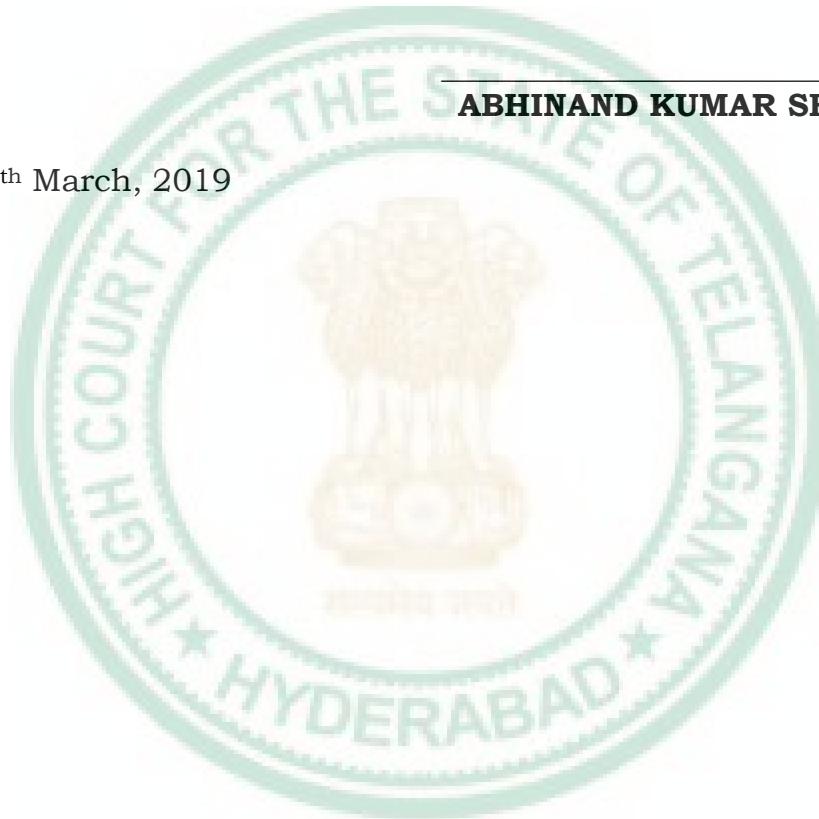
8. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 13th March, 2019

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111**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI****WRIT PETITION No.35085 of 2017**Date: 13th March, 2019

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