

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.46890 of 2018

ORDER :

This writ petition is filed seeking Writ of Mandamus declaring the that the disciplinary proceedings vide Charge Memo No.2017/CPR&RE/A2/2012, dated 11.03.2013, issued by respondent No.2 against the petitioner are liable to be set aside on the ground of delay in concluding the proceedings and further the action of respondent No.1 in not promoting the petitioner to the post of Deputy Chief Executive Officer on adhoc basis on the ground of long pending disciplinary proceedings and while promoting many of his juniors vide G.O.Rt.No.756 PR & RD (Pts.IV) Department, dated 19.12.2018 without concluding disciplinary proceedings for about 6 years without any justifiable reason, as arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution of India, and consequently, direct the respondents to promote the petitioner as Deputy Chief Executive Officer on par with his juniors with all consequential benefits of seniority and pay.

It is the case of the petitioner that he is working as a Casual Mandal Parishad Development Officer and he is fully eligible and qualified for promotion to the post of Deputy Chief Executive Officer. The petitioner submits that the respondents are not considering his case for promotion to the post of Deputy Chief Executive Officer on the ground that a Charge Memo

dated 11.03.2013 is pending against him. The grievance of the petitioner is that though the said Charge Memo was issued way back in March, 2013, the respondents are not concluding the said disciplinary proceedings nor considering his case for promotion to the post of Deputy Chief Executive Officer on par with his juniors.

Heard Sri M.V. Rama Rao, learned counsel for the petitioner and the learned Government Pleader for Services-II.

Learned counsel for the petitioner contends that though the entire enquiry proceedings have been concluded, the respondents are not passing final orders in the disciplinary proceedings pending against him. Learned counsel for the petitioner further contends that during the pendency of the disciplinary proceedings against the petitioner, as many of his juniors were promoted to the post of Deputy Chief Executive Officer, the petitioner has filed the present writ petition for the aforesaid relief and sought for passing appropriate orders directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Chief Executive Officer without reference to the pendency of Charge Memo against the petitioner. The learned counsel also sought a direction to set aside the said Charge Memo only on the ground of delay and laches in not concluding the disciplinary proceedings initiated against the petitioner.

On the other hand, the learned Government Pleader for Services contends that since the disciplinary proceedings are pending against the petitioner, his case was not considered for promotion to the post of Deputy Chief Executive Officer. He would further contend that appropriate orders would be passed in the said disciplinary proceedings in accordance with law.

This Court, having considered the rival submissions of the learned counsel for the respective parties, is of the considered view that the State Government had formulated certain guidelines in respect of the employees against whom disciplinary proceedings or criminal proceedings are pending and their suitability for the next promotional avenues vide G.O.Ms.No.257, dated 10.06.1999 and as per the said G.O., the competent authority must consider the cases of the employees against whom disciplinary proceedings are pending and pass orders as to whether the charges levelled against the said employees are involving moral turpitude or not and whether they are fit for next promotion, inspite of pendency of disciplinary proceedings against them.

In the instant case, disciplinary proceedings were initiated against the petitioner way back on 11.03.2013 and so far the respondents have not concluded the said disciplinary proceedings and on the ground of pendency of the said disciplinary proceedings, the respondents are not considering the case of the petitioner for promotion to the post of Deputy

Chief Executive Officer, which is contrary to the guidelines issued in the above said G.O.Ms.No.257, dated 10.06.1999. Therefore, this Court 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 Deputy Chief Executive Officer strictly in terms of G.O.Ms.No.257, dated 10.06.1999 and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

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

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

29.01.2019.
Msr

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