

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.48080 of 2018

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in depriving and denying the claim of the petitioner for promotion as per his turn in the seniority list as arbitrary and illegal. A consequential direction is also sought to direct the respondents to consider the claim of the petitioner for promotion to the post of Office Superintendent as per his seniority and eligibility by following G.O.Ms.No.66 General Administration (Ser.C) Department dated 30.01.1991.

Heard Sri C.Srinivasa Baba, learned counsel for the petitioner and the Sri Jagan Mohan Reddy, learned Standing Counsel for respondent No.1.

The case of the petitioner is that he was initially appointed as Record Assistant in the 1st respondent-Devasthanam on 21.6.1991. He was promoted as Junior Assistant during November, 1998 and further promoted as Senior Assistant on 27.6.2011. The grievance of the petitioner is that though he is eligible and qualified to be promoted as Superintendent, the respondents are not considering his case on the ground that disciplinary action is being contemplated against him. The petitioner stands at Sl.No.4 in the final seniority list dated 27.2.2016. The respondents, without issuing any charge sheet and without conducting any enquiry, had issued proceedings dated 9.12.2018 directing recovery

from the petitioner. Challenging the same, the petitioner has filed W.P.No.46610 of 2018 and this Court vide orders dated 24.12.2018 has suspended the said proceedings.

Learned counsel for the petitioner contends that right to be considered for promotion is a fundamental right of the petitioner and the respondents cannot deny the said right and deprive his promotion to the post of Superintendent. He further 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 Superintendent as no charge memo was given and no disciplinary proceedings were initiated against the petitioner.

Learned Standing Counsel appearing for the 1st respondent contends that serious allegations are leveled against the petitioner and the respondents are contemplating disciplinary action against the petitioner and the case of the petitioner would be considered in accordance with G.O.Ms.No.257 dated 10.6.1999.

A perusal of para-2 of G.O.Ms.No.257 dated 10.6.1999 would make it clear that the guidelines were issued by the Ministry of Personnel, Public Grievances and Pensions, Government of India in regard to consideration of Government Servants against whom disciplinary or Court proceedings are pending or whose conduct is under investigation, for promotion to next higher categories.

This Court having considered the submissions made by the parties, 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 Superintendent in terms of G.O.Ms.No.257 dated 10.6.1999.

Accordingly, this Writ Petition is disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Superintendent in terms of G.O.Ms.No.257 dated 10.6.1999 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 02/01/2019

lkv



