

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.854 of 2020

ORDER

This Writ Petition is filed seeking the following relief:

“ to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the petitioner is entitled to be considered and promoted as Assistant Prohibition and Excise Superintendent from the feeder category of Inspector of Prohibition and Excise without reference to the impugned departmental proceedings pursuant to Memo No.2347/Vig.II(2)/2015-2, dated 28/07/2016 issued by the 1st respondent with all consequential benefits by holding the action of the respondents in not considering the claim of the petitioner for promotion to the post of Assistant Prohibition and Excise Superintendent from the feeder category of Inspector of Prohibition and Excise on the ground of pendency of afore mentioned disciplinary proceedings as being arbitrary, illegal, unjust and in violation of Articles 14 and 16 of the Constitution of India and pass such other order or orders as may deem fit and proper in the circumstances of the case.”

Heard Sri D.Linga Rao, 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 is working as Prohibition and Excise Inspector, and that though he is eligible for promotion to the post of Assistant Prohibition and Excise Superintendent, the respondents are not considering

his case on the premise that disciplinary proceedings are pending against him.

Learned counsel appearing for the petitioner contends that the State Government has taken a policy decision in terms of G.O.Ms.No.66, General Administration (Services.C) Department, dated 30-01-1991, wherein it was directed that in respect of the employees who are facing disciplinary proceedings and whose cases fall under the group referred in para 2 (iii) of the said GO, the promotion/appointment by transfer to the next higher post shall be deferred only when a charge of misconduct was framed by the competent authority and served on the delinquent officer concerned or a charge sheet has been filed against him in a criminal Court as the case may be. Learned counsel further contends that the State Government has taken a policy decision in G.O.Ms.No.257, dated 10.6.99, wherein it was directed to consider the case of the employees against whom disciplinary proceedings are pending in accordance with the guidelines framed thereunder.

Learned Government Pleader appearing for respondents contends that case of the petitioner would be considered in terms of G.O.Ms.No.257, dated 10.6.1999 and that appropriate orders would be passed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if a direction is given to the respondents to consider the case of the petitioner for promotion to the post of Assistant Prohibition and Excise Superintendent.

Accordingly, the Writ Petition is disposed of, directing the respondents to consider the case of the petitioner for promotion to the post of Assistant Prohibition and Excise Superintendent strictly in terms of G.O.Ms.No.257, dated 10.6.1999 and also G.O.Ms.No.66, dated 30.01.1991 and pass appropriate orders within a period of four 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

Date: 10.01.2020
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