HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2778 of 2021

Date:16.02.2021

Between:

A.Usha Rani D/o.Saidulu,
Age : 45 yrs, Occu : DEO, Mahaboobnagar,
R/o.H.No.1-4-130/6, Kamala Nehru Colony,
New Prathiba Junior College,
Mahaboobnagar, Telangana 500 001

.....Petitioner

And

State of Telangana,
Rep., by its Principal Secretary,
School Education Department,
Secretariat, Saifabad, Hyderabad & others.

.....Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2778 of 2021

ORDER:

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Services-I. Having regard to the settled principles on issue involved in the writ petition, with the consent of learned counsel for petitioner and learned Assistant Government Pleader, the writ petition is disposed of at the admission stage.

2. Petitioner while working as Deputy Educational Officer, was served with a charge memo dated 27.11.2017 levelling two charges. In the seniority list of Deputy Educational Officers, petitioner's name was shown at Sl.No.2. During pendency of the disciplinary proceedings, ignoring petitioner, juniors to the petitioner were promoted as District Educational Officers vide proceedings dated 08.02.2018. On further consideration of the charges levelled against the petitioner and explanation offered by her, by order, dated 29.08.2018 the charges were dropped. On 30.09.2019 petitioner was promoted as District Educational Officer. Consequent to the dropping of disciplinary proceedings, the respondents ought to have undertaken review of promotions to the Cadre of District Educational Officer, granting benefits to the petitioner on par with her juniors. However, this exercise was not undertaken though petitioner was submitting representations to grant the said benefits. While so, on 03.02.2021 the very same juniors were further promoted as Joint Directors. In this writ petition, petitioner seeks declaration of the action of respondents in not granting her notional seniority on par with her juniors in the

cadre of District Educational Officer and not considering her for promotion as Joint Director while considering the promotion of her juniors.

3. The chronology of events noted above, lead to irresistible conclusion that petitioner was ignored for promotion during the pendency of disciplinary proceedings. Consequent to conclusion of disciplinary proceedings, ended in favour of delinquent employee, it is mandatory for the appointing authority to give effect to the recommendation of Departmental Promotion Committee (DPC) retrospectively on par with her juniors. If her name was not placed before the DPC on the ground that disciplinary proceedings were pending, to hold a review DPC to consider the claim of petitioner w.e.f. the date when junior was considered. If the employee is found otherwise eligible on such consideration, to grant promotion on par with her junior. This is the requirement of law and also the Government Policy. She is also entitled for consideration for further promotion as Joint Director on par with her juniors and if found eligible to grant promotion on and from the date of granting promotion to her junior.

4. Thus, not undertaking review of promotion to the post of District Educational Officer consequent to dropping of disciplinary proceedings and not considering the petitioner for promotion as Joint Director while granting promotion to her juniors amounts to arbitrary exercise of power and authority.

5. Having regard to the settled position of law, the Writ Petition is disposed of directing the respondent-Government as under :

(i) If petitioner was considered by earlier DPC and DPC recommendation is available with the 1st respondent, recommending promotion of the petitioner, the same shall be given effect to granting promotion from the date of promotion granted to her immediate junior;

(ii) If the claim of petitioner for promotion as District Educational Officer was not considered by the earlier DPC on the ground disciplinary proceedings were pending, hold a review DPC to consider her for promotion based on the seniority of petitioner in the Deputy Educational Officer cadre, assess the suitability of petitioner for promotion and if petitioner is found suitable, to grant her promotion on par with her juniors already promoted.

(iii) After undertaking such exercise and if petitioner is granted retrospective promotion as District Educational Officer, petitioner shall also be considered for further promotion as Joint Director and if found suitable to grant promotion on par with her juniors.

(iv) The entire exercise shall be completed within a period of six (6) weeks from the date of receipt of copy of this order.

Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

16th February, 2021
Rds

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.2778 of 2021

Date:16.02.2021

Rds