

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.9036 of 2017

JUDGMENT: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

01. This Writ Petition is filed seeking the following relief:

“..... to issue writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 3rd respondent in not promoting the petitioner to the post of Senior Assistant and the proceedings No.9/2015C-1, dated 06.10.2016 of the 2nd respondent rejecting his appeal for consideration for promotion to the post of Senior Assistant as arbitrary, illegal, untenable, colourable, exercise of power and in violation of Arts.14 and 16 of the Constitution of India and to quash or set aside the same and to issue a consequential direction to the 3rd respondent to promote the petitioner to the post of Senior Assistant with effect from 14.05.2014 with all consequential benefits including fixing his seniority over and above Respondent Nos.4 to 6 in the Category of Senior Assistant.....”.

02. Heard Sri Chilipireddy Narsi Reddy, learned counsel appearing for the petitioner, learned Government Pleader for Law Legislative Affairs and Sri V.Uma Devi, learned Standing Counsel for High Court appearing for the respondents.

03. It has been contended by the petitioner that he is working as a Junior Assistant and he is fully eligible and qualified to be promoted to the post of Senior Assistant. It has been further contended that the 3rd respondent has considered his case for promotion to the post of Senior Assistant and called him for the interviews, which were held on 13.05.2014. He has appeared for the interview and he had fared decently well in the selection process for promotion to the post of Senior Assistant.

04. The grievance of the petitioner is that though he had fared decently well in the interview for promotion to the post of Senior Assistant, the respondents have not promoted him to the post of Senior Assistant on the ground that the disciplinary authority was contemplating to initiate disciplinary proceedings against him as on the date of consideration of his case for promotion to the post of Senior Assistant.

05. Learned counsel appearing for the petitioner had contended that admittedly as on the date of consideration of

petitioner's case for promotion to the post of Senior Assistant, no charge-sheet is pending against the petitioner and only the disciplinary authority has come to an opinion to issue a charge-sheet and much later, the charge memo was issued to the petitioner. When the respondents are not considering the case of the petitioner for promotion to the post of Senior Assistant, the petitioner had preferred an Administrative Appeal before the 2nd respondent and the 2nd respondent vide proceedings dated 06.10.2016 has rejected his case for promotion to the post of Senior Assistant on the ground that the disciplinary proceedings were pending against the petitioner.

06. Learned counsel appearing for the petitioner had further contended that the 2nd respondent had failed to appreciate that as on the date of consideration of petitioner's case for promotion to the post of Senior Assistant, no charge memo or disciplinary proceedings are pending against the petitioner and therefore, the respondents ought to have

considered the case of the petitioner for promotion to the post of Senior Assistant and promoted him to the post of Senior Assistant.

07. Therefore, learned counsel appearing for the petitioner had contended that appropriate orders be passed in the writ petition directing the respondents to promote the petitioner to the post of Senior Assistant, as admittedly, as on the date of consideration of petitioner's case for promotion to the post of Senior Assistant, no disciplinary proceedings were initiated against the petitioner.

08. Learned Standing Counsel appearing for the respondents had contended that the petitioner had indulged in serious irregularities in respect of discrepancies in 953 files in the Court of Principal Junior Civil Judge, Warangal and the petitioner has not maintained the files properly by non-filing of connected papers and not complied the copy applications in the Court of Principal Junior Civil Judge, Warangal, and certain

malpractices were intentionally done such as re-assigning the S.R. numbers to the time-barred petitions. All these acts of the petitioner were construed as a misconduct and the disciplinary authority was of the opinion that the disciplinary proceedings should be initiated against the petitioner and since the disciplinary proceedings were initiated against the petitioner, the petitioner's promotion was kept in abeyance and finally, charge-sheet was issued on 17.06.2014 and the Enquiry Officer has submitted a detailed report on 17.10.2017 holding that the charges levelled against the petitioner were proved and finally, the disciplinary authority had imposed a major punishment of withholding of two increments with cumulative effect. Therefore, as the disciplinary proceedings were pending against the petitioner, the respondents have rightly denied promotion to the petitioner for the post of Senior Assistant.

09. Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered

view that the petitioner was called for the interview on 13.05.2014 for being considered for promotion to the post of Senior Assistant. Admittedly, as on the date of consideration of the case of the petitioner for promotion to the post of Senior Assistant, no charge memo is issued to the petitioner. The disciplinary authority had issued charge memo only on 17.06.2014. As the petitioner is not facing any disciplinary proceedings as on the date of consideration of his case for promotion to the post of Senior Assistant, the case of the petitioner deserves to be considered for promotion to the post of Senior Assistant.

10. Therefore, the respondents are directed to consider the case of the petitioner for promotion to the post of Senior Assistant by conducting a review DPC, as no charges were pending as on the date of consideration of the case of the petitioner for promotion to the post of Senior Assistant.

11. With the above observations, the writ petition is accordingly disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

Date: 07.03.2022
Prv