

HONOURABLE SRI JUSTICE E.V.VENUGOPAL

WRIT PETITION No.7438 of 2020

ORDER:

1 The present writ petition is filed aggrieved by the action of the respondents in not finalizing the two charge memos dated 28.07.2009 and 02.11.2011 though more than a decade passed away and in the said process denying the promotion to the petitioner as Administrative Officer.

2 The learned counsel for the petitioner submits that there are three cases pending against the petitioner, two ACB cases and one departmental disciplinary case. He further submits that though the two ACB cases were instituted in the years 2007 and 2010, the respondent authorities without completing the proceedings in those cases, denying promotion to the petitioner to the post of Administrative Officer. He further submits that in the identical circumstances Division Bench of erstwhile composite High Court, in W.P.No.25642 of 2017 dated 02.08.2017 and W.P.No.8690 of 2016 dated 18.03.2016 directed the respondents therein to consider the case of the petitioner therein for promotion.

3 On the other hand, the learned Government Pleader for Services – III submitted that the charges framed against the petitioner show the gravity of offence / misconduct committed by the writ petitioner. The charges were held proved and since the

explanations submitted by the petitioner has no merits, the matter was forwarded to the Government for obtaining advice of the Advisory Body in Vigilance matters and that the orders of the Government are awaited. With regard to the Departmental Disciplinary case, the learned Government Pleader submits that there are many other charged officers in the disciplinary case and that the explanations of the other charged officers are also to be examined and the enquiry is to be conducted on all the charged officers in a common enquiry and it is under process. He further submits that in view of the pendency of the above cases, the name of the petitioner was considered for promotion, but was deferred as per G.O.Ms.No.257 dated 10.06.1999. Hence prayed to dismiss the writ petition.

4 There is no dispute with regard to the pendency of the ACB cases as well as the departmental disciplinary case against the petitioner. The ACB cases relate to the years 2007 and 2010. in the meanwhile, the DPC was constituted twice and in the meeting of the said committee though the name of the petitioner was considered for promotion to the post of Administrative Officer, but it was deferred on the ground of pendency of the above cases.

5 Though the above cases were instituted long back the respondents are taking too much of time to complete the

investigation / enquiry into the charges. In the process the petitioner is being subjected to lot of sufferance.

6 In the identical circumstances the Division Bench of erstwhile composite High Court, in W.P.No.25642 of 2017 dated 02.08.2017 and W.P.No.8690 of 2016 dated 18.03.2016 directed the respondents therein to consider the case of the petitioner therein for promotion as and when the Departmental Promotion Committee is constituted without reference to the charges framed against the petitioner therein, but, however, subjecting such promotion to the outcome of the pending departmental proceedings.

7 Since the case of the petitioner also stands on the same footing, this Court is of the view that the same principle may be applied in his case also.

8 Accordingly, the respondents are hereby directed to consider the case of the petitioner for promotion to the post of Administrative Officer as and when the Departmental Promotion Committee is constituted, without reference to the charges framed against the petitioner therein, but, however, subjecting such promotion to the outcome of the pending departmental proceedings.

9 The writ petition is accordingly allowed. No order as to costs.

10 Miscellaneous petitions if any pending in this writ petition shall stand closed.

E.V.VENUGOPAL, J.

Date: .02.2023
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