IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

WEDNESDAY, THE TWELFTH DAY OF MARCH

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 30378 OF 2023

Between:

D Karunalatha, D/o. Dharanna Age:42 Years, Occ:Gr. II Hostel Welfare Officer, Govt.S.W Girls Hostel (College) Dhone, Nandyal District. Andhra Pradesh State.

...PETITIONER

AND

1. The District Collector, Nandyal, Nandyal District.
2. The District Collector, (SCW) Kumool, Kumool District.
3. The Deputy Director, Social Welfare Department, Nandyal, Nandhal District.
4. The State of Andhra Pradesh, Rep. by its Principal Secretary, Social welfare Department, Secretariat, Velagapudi, Guntur District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of mandamus a) To declare the entire action of the respondents, particularly the entire action of the respondents 1, 2 & 3 in not considering the case of the petitoner for promotion to the post of Grade - I Hostel Welfare Officer, (which is a non selection post) and seniority in feeder category is alone is the criteria, even though she is fully eligible, qualified and within the zone of consideration, while considering the names of juniors on the untenable ground that the departmental proceedings initiated vide charge memo Procgs RC. No.A1/10/2019 dated :01-02-2019

of the 2nd respondent (for the issue dated 16-10-2018), is pending is as highly illegal, arbitrary, unjust, improper, contrary to various judicial pronouncements in the subject matter, and the very charge memo dated 1-1-2019 2nd respondent is liable to be set aside on the ground of inordinate delay / latches in continuing said proceedings despite of co-operation from the petitioner. b) Further hold that the petitioner is entitled for promotion to the post of Grade -I Hostel Welfare Officer, w.e.f the day on which her immediate juniors were promoted vide procds.Rc. No. A1/16/2022 dated: 8-2-2022 and procds Rc. No. A1/16/2022 dated 25-5-2022 with all consequential benefits, as her case was ignored erroneously in contrary to above referred judicial pronouncements in the same subject matter c) And consequently to direct the respondents to forthwith consider the case of the petitioner for promotion to the post of Grade-I Hostel Welfare Officer (which is a non-selection post) in the existing vacancies without reference to the pendency of the departmental proceedings initiated vide charge memo Procgs RC. No.A1/10/2019 dated 01-02-2019 of the 2nd respondent (for the issue dated 09.04.2018) as the petitioner is no way concerned for such delay for the pending of proceedings in view of law laid down by Division Bench of his Hon'ble Court in WP. No 3099/2017 dated:27-8-2021 and W.A. No. 550/2022 dated 6-9-2022 in the same subject matter.

IA NO: 1 OF 2025

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the respondents in the writ petition no. 30378 of 2023 to file counter affidavit in the above writ petition.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to forthwith consider the case of the petitioner for promotion to the post of Grade-I Hostel Welfare Officer (which is a non-selection post) in the existing vacancies without

reference to the pendency of the departmental proceedings initiated vide charge memo Procgs. RC.No.A1/10/2019 dated 01-02-2019 of the 2nd respondent (for the issue dated 09.04.2018) in view of law laid down by Division Bench of this Hon'ble Court in WP. No 3099/2017 dated:27-8-2021 and W.A. No. 550/2022 dated: 6-9-2022 in the same subject matter.

Counsel for the Petitioner : SRI EATHAKOTA VENKATA RAO

Representing

SRI SANTHAPUR SATYANARAYANA RAO

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following ORDER:

APHC010587162023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3506]**
(Special Original Jurisdiction)

WEDNESDAY, THE TWELFTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 30378/2023

Between:

Smt.D.Karunalatha ...**PETITIONER**

AND

1.The District Collector and Others ...**RESPONDENT(S)**

Counsel for the Petitioner:

1. SANTHAPUR SATYANARAYANA RAO

Counsel for the Respondent(S):

1. GP FOR SOCIAL WELFARE

2.

The Court made the following:

ORDER:

This Writ Petition is filed seeking the following relief:

> "....to issue a Writ, order or direction, more particularly, one in the nature of Writ of mandamus – (a) declaring the entire action of the respondents, particularly the entire action of respondents 1, 2 and 3 in not considering the case of the petitioner for promotion to the post of Grade-I Hostel Welfare Officer (which is a non-selection post) and seniority in feeder category is alone is the criteria, even

though she is fully eligible, qualified and within the zone of consideration, while considering the names of juniors on the untenable ground that the departmental proceedings initiated vide charge memo Procgs. RC.No.A1/10/2019, dated 01.02.2019 of the 2nd respondent (for the issue dated 16.10.2018), is pending as highly illegal, arbitrary, unjust, improper, contrary to various judicial pronouncements in the subject matter, and the very charge memo, dated 01.01.2019, of the 2nd respondent is liable to be set aside on the ground of inordinate delay / laches in continuing said proceedings despite of cooperation from the petitioner;

(b) further, hold that the petitioner is entitled for promotion to the post of Grade-I Hostel Welfare Officer, w.e.f. the day on which her immediate juniors were promoted vide Procds.RC No.A1/16/2022, dated 08.02.2022 and Procds.RC.No.A1/16/2022, dated 25.03.2022 with all consequential benefits, as her case was ignored erroneously in contrary to above referred judicial pronouncements in the same subject matter;

(c) and, consequently, to direct the respondents to forthwith consider the case of the petitioner for promotion to the post of Grade-I Hostel Welfare Officer (which is a non-selection post) in the existing vacancies without reference to the pendency of the departmental proceedings initiated vide charge memo Procgs. RC.No.A1/10/2019, dated 01.02.2019 of the 2nd respondent (for the issue dated 09.04.2018) as the petitioner is no way concerned for such delay for the pending of proceedings in view of law laid down by Division Bench of this Hon'ble Court in W.P. No.3099/2017, dated 27.08.2021 and W.A. No.550/2022, dated 06.09.2022, in the same subject matter and to pass...."

2. Petitioner has been appointed as Hostel Welfare Officer Grade-II by the 2nd respondent on 24.03.2006 and later her services were regularized w.e.f. 24.03.2006 and after completion of successful and satisfactory service, her probation also declared w.e.f. 23.03.2008. She has been issued charge memo, by

proceedings in RC No.A1/10/2019, dated 01.02.2019. The statement of articles of charge framed against her are specified in Annexure-I. Petitioner has submitted explanation refuting the said charges on 14.02.2019 and since, then, the enquiry is pending. Meanwhile, 1st respondent has drawn final seniority list of Grade-II Hostel Welfare Officers working in Kurnool District, as on 28.09.2023, in which, petitioner has been shown at Sl.No.10. She is due for promotion as Hostel Welfare Officer Grade-I. Even her juniors have been promoted as Hostel Welfare Officers Grade-I and in view of pendency of departmental proceedings, the case of petitioner is not being considered for promotion to the post of Hostel Welfare Officer Grade-I. As the enquiry is not concluded and petitioner is being denied promotion on that count, she preferred the present writ petition.

3. Heard Sri Eathakota Venkata Rao, learned counsel, representing Sri S.Satyanarayana Rao, learned counsel for the petitioner and learned Assistant Government Pleader for Social Welfare appearing for the respondents.

4. Learned counsel for the petitioner submits that though charge memo was issued on 01.02.2019 communicating statement of

articles of charge, so far there is no progress in the enquiry and under the guise of pendency of disciplinary proceedings, petitioner is being denied promotion to the post of Hostel Welfare Officer Grade-I. Petitioner is eligible and stands at Sl.No.10 in the final seniority list prepared as on 28.09.2023. He would submit that the disciplinary proceedings are supposed to be completed within time frame as specified in G.O.Ms. No.91. dated 22.02.2022. He further places reliance on the judgments rendered by the Division Bench of the common High Court for the State of Telangana and for the State of Andhra Pradesh in P.**Venkateshwara Rao v. The District Collector, East Godavari District**[1]; and this Court in **State of Andhra Pradesh v. Motupalli Narasimha Raju**[2] and **State of A.P. v. Ch. Venkata Rao**[3], to buttress his contention that pendency of departmental enquiry is not a bar for promotion and that Rule 5(b)(i) of the Andhra Pradesh State and Subordinate Service Rules, 1996, would not come in the way of granting promotion in cases of pendency of disciplinary proceedings and unless the incumbent is subjected to penalty, promotion cannot be denied, he, therefore, prays to issue direction to the respondents to consider the case of

[1] Order, dated 17.07.2017, in W.P.No.30336 of 2016, of composite High Court of A.P. (DB)
[2] Order, dated 27.08.2021, in W.P.No.3099 of 2017 (AP HC)(DB)
[3] Judgment, dated 06.09.2022, in W.A. No.550 of 2022. (AP HC) (DB)

the petitioner for promotion without reference to pendency of disciplinary proceedings.

5. Learned counsel further submits that delay of more than 6 years in completing the enquiry would seriously prejudice the petitioner claim for promotion and at any rate the mere pendency of the disciplinary proceedings could not come in her way for promotion. He placed reliance on the case of **State of Punjab & Ors., v. Chaman Lal Goyal**[4] and submits that the interest of petitioner be protected and balanced approach has to be taken by directing the respondents to consider her case for promotion without reference and taking into consideration the charges of pendency of the disciplinary proceedings if she is otherwise eligible and meritorious. He also placed reliance .on the order passed in W.P.No.17246 of 2024 by which a co-ordinate bench of this Court, while following the judgment rendered by the Division Bench in **Government of Andhra Pradesh v. A.Rajeswara Reddy**[6] directed the respondents therein to consider the petitioners case for promotion without reference to disciplinary proceedings.

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[4] (1995) 2 Supreme Court Cases 570
[5] 2010 (4) ALT 374 (DB)

6. On the other hand, learned Assistant Government Pleader submits that the petitioner is not entitled to be considered for promotion as disciplinary proceedings are pending against her. Therefore, her case would be considered only after conclusion of said departmental proceedings. He further submits that the disciplinary enquiry initiated in pursuance to the charge memo dated 01.02.2019 will be concluded soon and shall complete within the time frame prescribed in G.O.Ms.No.91, dated 22.09.2022.

7. It is undisputed that petitioner has been issued charge memo, by proceedings in RC No.A1/10/2019, dated 01.02.2019. Petitioner has submitted explanation refuting the said charges on 14.02.2019 and since, then, the enquiry is pending.

8. The Hon'ble Apex Court in **Chaman Lal Goyal**[4], while deciding a situation of delay in serving the charges has tried to balance the interest of both the employer and employee and in the said context has held as follows:

> "Applying the balancing process, we are of the opinion that the quashing of charges and of the order appointing enquiry officer was not warranted in the facts and circumstances of the case. It is more appropriate and in the interest of justice as well as in the interest of administration that the enquiry which had proceeded to a large extent be allowed to be completed. At the same time, it is directed that the respondent should be considered forthwith for promotion without reference to and without taking into consideration

> the charges or the pendency of the said enquiry and if he is found fit for promotion, he should be promoted immediately. Ibis direction is made in the particular facts and circumstances of the case though we are aware that the Rules and practice normally followed in such cases may be different. The promotion so made, if any, pending the enquiry shall, however, be subject to review after the conclusion of the enquiry and in the light of the findings in the enquiry. It is also directed that the enquiry against the respondent shall be concluded within eight months from today. The respondent shall cooperate in concluding the enquiry. It is obvious that if the respondent does not so cooperate, it shall be open to the enquiry officer to proceed ex-parte. If the enquiry is not concluded and final orders are not passed within the aforesaid period, the enquiry shall be deemed to have been dropped."

9. Even a co-ordinate Bench of this Court in **Md. Rehaman Ali v. State of A.P.**[6], in similar case of pending enquiry in pursuance to charges, as the enquiry was not completed within the time frame fixed in pursuance to G.O.Ms.No.91, dated 22.09.2022, and in the guise of enquiry, petitioner therein was not considered for promotion, by following the judgement of Division Bench in **A.Rajeswara Reddy**[5] issued the following directions:

> "8. In **Government of A.P., vs. A.Rajeswara Reddy**[1], it was held that the disciplinary proceedings initiated against an employee of Government are to be completed within three months in simple cases and in six months in case of complicated cases, as per the policy decision taken by the Government in G.O.Ms.No.679, General Administration (Services-C) Department, dated 01.11.2008. The Division Bench also directed the concerned Authorities to consider the case of the employee for promotion without reference to the pending disciplinary proceedings, while upholding the order of the Administrative Tribunal.

[6] Order, dt 07.08.2024, in W.P.No.17246 (A.P. H.C.)

> 9. Case at hand, as referred to supra, though the disciplinary proceedings were initiated on 29.06.2022, inquiry is not concluded so far.
> 10. Given the facts and circumstances of the case coupled with the judgment referred to supra, the Writ Petition is disposed of with the consent of learned counsel on either side at the admission stage, directing the respondent authorities to consider the petitioner's case for promotion without reference to disciplinary proceedings initiated vide G.O.Rt No.482, dated 29.06.2022, if the petitioner possesses other requisite qualifications, as per law. No order as to costs."

10. Even in the present case, as the incident has happened in the year 2018 and disciplinary proceedings came to be initiated in 2019, considering the fact that the petitioner has been shown in seniority list at serial No.10 and for the pendency of the disciplinary proceedings which came to be initiated way back in the year 2019, the writ petition is disposed of with the following direction:

"(a) The respondents without reference and without taking into account or consideration the charge memo vide Procs. RC No.A1/10/2019, dated 01.02.2019, or the pendency of the enquiry before respondent No.2, are directed to consider the case of the petitioner for promotion, after she is found fit for promotion in accordance with law;

(b) The respondents are also directed to complete the enquiry within a period of four (04) months from the date of receipt of a copy of this order."

11. Accordingly, the Writ Petition stands disposed of. No order as to costs.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

Sd/- K. TATA RAO
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The District Collector, Nandyal, Nandhal District.
2. The District Collector, (SCW) Kurnool, Kurnool District.
3. The Deputy Director, Social Welfare Department, Nandyal, Nandhal District.
4. The Principal Secretary, Social welfare Department, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur District.
5. One CC to SRI. SANTHAPUR SATYANARAYANA RAO, Advocate [OPUC]
6. Two CCs to GP FOR SOCIAL WELFARE, High Court Of Andhra Pradesh. [OUT]
7. Three CD Copies

PRK

HIGH COURT

DATED:12/03/2025



ORDER

WP.No.30378 of 2023

DISPOSING OF THE W.P. WITHOUT COSTS