

HONOURABLE SMT. JUSTICE V.SUJATHA

WRIT PETITION No.20236 of 2023

ORDER:

The present Writ Petition came to be filed under Article 226 of the Constitution of India seeking the following relief:-

“...to issue writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the respondents in not considering the request of the petitioner to effect the promotion of the petitioner from the cadre of Sr.Assistant to the post of Dy.Tahsildar in Revenue Department, Visakhapatnam District by ignoring the seniority of the petitioner in the cadre of Sr.Assistant as illegal, arbitrary and contrary to law, consequently direct the 2nd respondent to effect the promotion of the petitioner to the cadre of Dy.Tahsildar as per the seniority list dated 02.09.2021 above all the candidates promoted in 2021 in Visakhapatnam District by including the name of the petitioner in draft seniority list of the year 2023....”

2. The case of the petitioner is that he was initially appointed as Typist in Revenue Department in Visakhapatnam District on 12.05.2003 on compassionate grounds. Thereafter, he was promoted as Revenue Inspector on 26.12.2012 and posted at Chowdavaram. Later, he was transferred to the office of Revenue Divisional Office, Anakapalle on 18.09.2015 and posted as Senior Assistant.

3. While so, the petitioner was suspended from service on 11.10.2017 by the 2nd respondent on the allegation of corruption charges and a crime was registered on 12.10.2017 by the Anakapalle Town Police Station and no investigation has been

taken place so far. Based on the said crime, a charge memo dated 29.07.2018 was issued by the 2nd respondent and appointed the Joint Collector-II as an enquiry officer and a notice dated 29.08.2018 was issued to the petitioner, for which, he submitted a reply on 08.08.2018 and 29.08.2018 requesting to produce the material on which the allegations are leveled against him. Till date, no further steps are taken in the matter.

4. Subsequently, the 2nd respondent issued proceedings dated 12.12.2018 revoking the suspension of the petitioner and he was reinstated into duty, pending finalization of the disciplinary proceedings and posted in the office of Tahsildar, Rolugunta. Later, he was posted in the office of Joint-Collector, Anakapalli and is presently working as CC to the Divisional Revenue Officer. The respondents have prepared the seniority list dated 02.09.2021 to effect promotion to the cadre of Deputy Tahsildar. In the said seniority list, the petitioner's name was shown at Sl.No.8. Thereafter, the petitioner made a request to the 2nd respondent stating that he is senior most in the cadre of Senior Assistant and his name may be considered for promotion to the post of Deputy Tahisldar. Ignoring the same, the promotions were effected. The petitioner filed a writ petition in the year 2021 seeking a direction for early disposal of the crime registered against him and to consider his case for promotion to the post of Dy.Tahsildar.

5. In the year 2022, another seniority list of Senior Assistants was prepared and his name was shown at Sl.No.10. In the remarks column it is mentioned that “disciplinary case is pending, may be deferred”. Immediately, the petitioner made a request to the 2nd respondent stating that in the year 2021 also, his name was not considered for promotion on the ground that the disciplinary enquiry is pending against him. Though he has brought all these facts to the notice of the respondents, his case has not been considered for promotion to the post of Deputy Tahsildar in the year 2022 and all his juniors i.e. 80 in number were promoted to the post of Deputy Tahsildar. A crime was registered against the petitioner on 11.10.2017 i.e. all most six years are elapsed, but no enquiry has been conducted or concluded till date. Aggrieved by the same, he filed the present writ petition.

6. Heard the learned counsel for the petitioner, the learned Government Pleader for Services-I appearing for the respondents.

7. The learned counsel for the petitioner relied upon a judgment in ***P.S.V. Lakshmi Vs. The State of Andhra Pradesh*** (W.P.No.17546 of 2019) and ***N. Elangovan Vs. The State of Andhra Pradesh*** (W.P.No.17553 of 2019), wherein, the petitioners therein have filed the writ petitions seeking for promotion to the post of Executive Engineer. In the said judgments, this Court has referred to a judgment in ***S.B.***

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(W.P.No.11575 of 2019), wherein this Court has referred to a judgment in ***Government of Andhra Pradesh, represented by its Principal Secretary, Revenue Department, and another Vs. A. Rajeswara reddy, Deputy Collector***¹, in which the Division Bench of High Court of Andhra Pradesh, Hyderabad has 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 complicated cases, as per policy decision taken by Government vide G.O.Ms.No.679, General Administration (Services-C) Department, dated 01.11.2008.

8. In the case on hand, the petitioner was initially appointed as Typist on compassionate grounds. Subsequently, he was promoted as Revenue Inspector in the year 2012. Thereafter, he was transferred to the office of Revenue Divisional Office, Anakapalle and posted as Senior Assistant. In the year 2018, a charge memo dated 29.07.2018 was issued to the petitioner on the allegation of corruption charges. Subsequently, an enquiry officer was appointed and a notice was issued to the petitioner on 29.08.2018, directing the petitioner to attend the enquiry. For which, the petitioner gave a reply dated 08.08.2018 and 29.08.2018 requesting to provide the material on which the

¹ 2010(4)ALT374 (D.B)

allegations are leveled against him. But, inspite of the same, the said enquiry was not completed and the promotion of the petitioner to the post of Deputy Tahsildar was denied due to pendency of the charge memo dated 29.07.2018, which is bad in law and against the principles of natural Justice.

9. This Court, in ***Government of Andhra Pradesh, represented by its Principal Secretary, Revenue Department, and another Vs. A. Rajeswara reddy, Deputy Collector*** (referred supra), has also held that any disciplinary proceedings that were initiated against an employee of Government, shall be completed within a period of three (3) months in simple cases and in complex cases, the proceedings shall be completed in six (6) months as per the policy decision taken by Government vide G.O.Ms.No.679, dated 01.11.2008. But, in the present case, though enquiry authority was appointed to conduct a regular inquiry on three occasions, till date, no enquiry has been initiated on the charge memo dated 22.12.2012, which is against the principles of natural justice and also against the policy decision taken by Government vide G.O.Ms.No.679, General Administration (Services-C) Department, dated 01.11.2008.

10. Hence, following the said order and in terms thereof, this Court feels it appropriate to dispose of the writ petition by directing the respondents to consider the case of the petitioner for promotion to the post of Deputy Tahsildar without reference

to the disciplinary proceedings pending against him and pass appropriate orders in terms of the prevailing Government Orders and in accordance with law. There shall be no order as to costs.

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

JUSTICE V.SUJATHA

Date : 11.08.2023

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