

(2012) 08 KAR CK 0163

In the Karnataka High Court

Case No : Writ Petition No. 24161 2912 (S-PRO)

B N Jagadeesh

APPELLANT

Vs

Bruhath Bangalore Mahanagar Palike and Others

RESPONDENT

Date of Decision : 10-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0163

Hon'ble Judges : Subhash B. Adi, J

Bench : Single Bench

Advocate : Puttige R. Ramesh, for the Appellant; I.G. Gachchinamath, for the Respondent

Judgement

Subhash B. Adi

1. Petitioner, though, has sought for the relief to close the departmental proceedings initiated against him pursuant to communication as per Annexure "ID" dated 20th May 2010, however, he confines his relief to prayer (ii) i.e., issue of writ of mandamus directing the first respondent to promote the petitioner from the date on which his juniors were promoted as claimed in the representation dated 22.09.2011 produced at Annexure "F". The petitioner was kept under suspension with effect from 17.01.2009. In view of the pendency of the departmental enquiry as against the order of suspension, he had filed Writ petition No. 1785/2009. This Court, by order dated 5th February 2009, stayed the operation of the suspension order and precluded the respondents from proceeding with the departmental enquiry. The departmental enquiry was culminated in passing of the order dated 01.09.2010 inter alia holding that the charge is not proved. The petitioner was exonerated and his period of suspension was treated as on duty.

2. In the meanwhile, his case was considered by the promotion committee (for short, "DPC") had kept the consideration of the case of the petitioner for promotion in a sealed cover in view of the departmental enquiry pending against

him.

3. Learned counsel for the pethioner submits that now, the departmental enquiry has ended in exonerating the petitioner, without there being no impediment to promote him. The case has been kept in a sealed cover even till today.

4. On the other hand, the learned counsel appearing for the respondent - Corporation submitted that in view of the departmental enquiry, the matter has been kept in sealed cover. Since the consideration of the petitioner's case for promotion was kept pending only on the ground of pendency of departmental enquiry, if the departmental enquiry is completed, there is no impediment for the respondents to consider the case of the petitioner and if he is found suitable for promotion as per the sealed cover, he should be promoted to the next higher cadre.

In view of the above, the petition is partly allowed. The first respondent is directed to open the sealed cover. If the departmental enquiry against the petitioner is concluded and if there is no impediment and if the petitioner is found eligible, he may be promoted to the next higher cadre within two months from the date of receipt of copy of this order.