

(2023) 03 TEL CK 0107
In the Telangana High Court
Case No : Writ Petition No. 5082 Of 2022

C. Srinivasa Rao	Vs	APPELLANT
State Of Telangana And 2 Others		RESPONDENT

Date of Decision : 31-03-2023

Acts Referred:

Constitution Of India, 1950 — Article 14, 16, 226
Telangana Civil Services (Disciplinary Proceedings Tribunal) Rules, 1961 — Rule 7, 8

Citation : (2023) 03 TEL CK 0107

Hon'ble Judges : K.Sarath, J

Bench : Single Bench

Advocate : V.Ravi Chandran

Final Decision : Disposed Of

Judgement

1. This Writ petition is filed under Article 226 of Constitution of India, seeking the following relief:

"....to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring that the petitioner is entitled to have his case considered and be promoted as Motor Vehicles Inspector without reference to the charges framed by the respondent No.3 vide TEC No.2/2020 dated 02.03.2020 for an alleged incident pertaining to the year 2013, with all consequential benefits in the interest of justice duly setting aside the disciplinary proceeding which are being continued pursuant to TEc No.2/2020 and the rejection memo No.1621/C3/2020 dated 01.12.2021 issued by the respondent No.2 as being arbitrary, illegal, vitiated by the delay, and in violation of articles 14 and 16 of the Constitution of India....."

2. Heard Sri V.Ravi Chandran, Learned Counsel appearing for the petitioner and the Learned Assistant Government Pleader for Services-III, appearing for the respondents.

3. The Learned Counsel appearing for the petitioner submits that the petitioner is

presently working as Assistant Motor Vehicle Inspector and he is eligible and fully qualified for the promotion to the post of Motor Vehicle Inspector. The Anti Corruption Bureau (ACB) officials have conducted a surprise check at integrated check post, Saloor, Nizamabad on the intervening night of 20/21-12-2013. Upon receipt of the report from the ACB officials, the Government had entrusted the matter to the Tribunal for Disciplinary Proceedings (for brevity T.D.P) to frame charges, conduct enquiry and send report on 22.07.2016. Accordingly, the T.D.P framed three charges and the gist of the allegation is that the ACB officials have seized an amount of Rs.11,880/- from a private person purportedly engaged by the petitioner. Notice of enquiry dated 20.03.200 was issued and the proceedings are yet to be commenced before the T.D.P.

4. The learned Counsel for the petitioner further submits that after lapse of more than three years from the date of surprise check, the Government had entrusted the matter to T.D.P in the year 2016 and the T.D.P has taken three years to frame charges though the charges were framed on 02.03.2020 the enquiry is yet to commence. As the respondents Nos.1 and 2 were taking up promotions to the posts of Motor Vehicle Inspectors and the case of the petitioner was being overlooked the petitioner was constrained to file Writ Petition No.5068 of 2021 seeking for a direction to the respondents therein to consider the claim of the petitioner for promotion without reference to the disciplinary proceedings. This court disposed of the Writ Petition on 03.03.2021 directing the respondents to consider the case of the petitioner for promotion to the post of Motor Vehicle Inspector in accordance with the provisions of G.O.Ms.No.257, dated 10.06.1999 and G.O.Ms.No.66 dated 30.01.1991. The respondent No.2 issued the impugned rejection Memo No.1621/C3/2021 dated 01.12.2021 stating that in view of the guidelines contained in G.O.Ms.No.257 dated 10.06.2009 the Departmental Promotion committee had deferred the case of the petitioner for promotion on the ground of pendency of disciplinary proceedings.

5. The learned Counsel for the petitioner further submits that the Government issued orders in G.O.Ms.No.679 dated 11.11.2008 stipulating time limit of three and six months for completion of enquires in simple and complicated cases respectively. In the instant case the date of alleged incident was nine years back and the disciplinary proceedings are to be vitiated and liable to be set aside and requested to allow the writ petition.

6. The learned Counsel for the petitioner in support of his contention, relied on the following judgments:

1. State of Punjab Vs. Chamanlal Goyal 1995 SCC (2) 570.

2. Government of Andhra Pradesh and another Vs.A.Rajeshwar Reddy 2010 (3) ALD 501 (DB).

7. The Learned Assistant Government Pleader for Services-III, basing on the counter, submits that three charges were framed by the T.D.P. As per Rule 7 of Telangana Civil Services (Disciplinary Proceeding Tribunal) Act, 1960 on

conclusion of enquiry the tribunal shall report its finding to the Government and under Rule-8 of the said Act the Government shall consider the report of the Tribunal in the prescribed manner and pass such orders as they think fit. The matter is under sub-judice before the said Tribunal. The Departmental Promotion Committee convened its meeting on 04.12.2020 and the name of petitioner was placed and his name was considered at Roster Point No.92-OC and promotion was deferred by the DPC as it was not feasible for inclusion of the name in the panel in terms of G.O.Ms.No.257, General Administration (Ser.C) Department dated 10.06.1999 as the petitioner was involved in a ACB Case.

8. The learned Assistant Government Pleader further submits that, as per G.O.Ms.No.66, General Administration (Ser.C) Department dated 30.01.1991 promotion to a higher post, who are facing disciplinary proceedings or a criminal case whose conduct is under investigation shall be deferred when charges of misconduct are framed by the competent authority and served on the delinquent officer or charge-sheet has been filed in criminal court, and requested to dismiss the writ petition.

9. The learned Assistant Government Pleader for Services-III relied upon the following judgment:

1. Nookala Ravinder Reddy Vs. State of Telangana Reddy Unreported judgment of T.S.High Court In WP No.9388 of 2020 dated 07.07.2020.

10. After hearing both sides, this Court is of the considered view that the Anti-Corruption Bureau (ACB) officials have registered case against the petitioner in the year 2013 and the matter was entrusted to Tribunal for Disciplinary Proceedings and the same is pending before it since 2016 and the respondents have rejected the case of the petitioner on 01.12.2021 for promotion as per G.O.Ms.No.257 dated 10.06.1999.

11. In identical matters this Court disposed of the Writ Petition directing the Tribunal to conclude the proceedings within the time frame by following the judgment of this court in W.P.No.32300 of 2022 dated 22.08.2022, W.P.No.32464 of 2022 dated 18.08.2022 and W.P.No.2473 of 2023 dated 31.01.2023.

12. In view of the same, this writ petition is disposed of directing the respondent No.3 to conclude the disciplinary proceedings against the petitioner within the period of six (6) months from the date of receipt of copy of this order. If the proceedings cannot be conclude by any reason within a period of six (6) months, the respondent Nos.1 and 2 are directed to take a decision on disciplinary proceedings in accordance with law, or otherwise the disciplinary proceedings shall be deemed to have been disposed.

13. The writ petition is accordingly disposed of. However, there shall be no order as to costs.

14. Miscellaneous petitions, pending if any, shall stand closed.