
(2021) 07 TEL CK 0062
In the Telangana High Court
Case No : Writ Petition No. 7999 Of 2021

V.Venkata Chary

APPELLANT

Vs

State Of Telangana And 2 Others

RESPONDENT

Date of Decision : 13-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 21

Citation : (2021) 07 TEL CK 0062

Hon'ble Judges : Abhinand Kumar Shavili, J

Bench : Single Bench

Advocate : N Srikanth Goud

Final Decision : Allowed

Judgement

1. This writ petition is being disposed of at the stage of admission with the consent of both parties.

2. This writ petition is filed seeking the following relief:

to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus by declaring action of the 3rd

respondent, without jurisdiction, rejecting the claim of the petitioner pending appeal before the 1st respondent for notional promotion in the category of

Prohibition and Excise Inspector from 05.01.2010 on par with his junior is not feasible Cr.No.A3/1272/200 Dated 05.02.2021 respectively as being

arbitrary, erroneous, unjust, disproportionate and in violation of Articles 14 and 21 of the constitution of India and consequently hold that the petitioner

is entitled for notional promotion in the category of Prof and Excise Inspector from 05.01.2010 on par with his junior and to revise his pay scales and

to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

3. Heard Sri N. Srikanth Goud, counsel for the petitioner, and Government Pleader appearing for the respondents.

4. It has been contended by the petitioner that initially he was appointed as Excise Constable in the year 1977 and after rendering a considerable

period of service, he has earned various promotions and finally while he was working as Excise Sub-Inspector at Kachiguda, the disciplinary authority

has initiated disciplinary proceedings against him on the alleged ground that he has accepted Rs.3000/- from the complainant and he was caught red

handed. However, the disciplinary proceedings initiated against the petitioner have ended in exoneration of the petitioner, as the said allegation was not

held to be proved in the departmental proceedings. The petitioner has further contended that other departmental proceedings were initiated against him

on the ground that Annual Property Returns were not filed by him from the date of his joining service. Thereupon, the petitioner submitted a detailed

explanation stating that he has already filed Annual Property Returns before the concerned Station House Officer and requested to drop further action

against him. As the petitioner has retired from service on attaining the age of superannuation on 30.04.2012, accepting the explanation submitted by

the petitioner, the State Government has imposed the punishment of 5% cut in service pension for a period of three years vide G.O.Rt.No.349 dated

03.06.2017. Challenging the said punishment, the petitioner has filed W.P.No.15269 of 2018 and this Court was pleased to allow the said writ petition

vide orders dated 04.06.2019, setting aside G.O.Rt.No.349 dated 03.06.2017. Thereafter, the petitioner submitted a detailed representation to the

respondents seeking notional promotion as Prohibition & Excise Inspector, but vide proceedings dated 05.02.2021, the case of the petitioner was

rejected on the ground that as per G.O.Ms.No.331 dated 03.05.2013, the petitioner is not entitled for notional promotion. Aggrieved by the same, the

present writ petition is filed.

5. Counsel for the petitioner contended that when once the punishment of 5% cut in service pension for a period of three years, was set aside by this

Court in W.P.No.15269 of 2018, the respondents ought to have considered the case of the petitioner for notional promotion to the post of Prohibition &

Excise Inspector on par with his junior Sd. Mubashir Mehdi, with all consequential benefits, but the respondents have mechanically rejected the case

of the petitioner by relying on G.O.Ms.No.331 dated 03.05.2013.

6. Government Pleader appearing for the respondents had contended that the case of the petitioner was considered in terms of G.O.Ms.No.331 dated

03.05.2013, whereby the Government ordered that promotions shall be considered with prospective effect only, in subsequent panel years in respect of the cases where;

- i) Charges were dropped using the words let off, warning, to be careful in future, on humanitarian grounds, on benefit of doubt etc.,
- ii) Original order of penalty was modified on appeal or revision, after elapse of stipulated time (or) on humanitarian grounds (or) due to retirement etc,
- iii) the Individual was acquitted by Courts on benefit of doubt in criminal case.

7. Government Pleader further submits that a perusal of clause (ii) of the above Rule position makes it clear that the promotions shall be considered

with prospective effect only, in subsequent panel years where the original order of penalty was modified on appeal or revision, after elapse of

stipulated time (or) on humanitarian grounds (or) due to retirement etc., and as such, the case of the petitioner for notional promotion cannot be

considered and the respondents have rightly rejected the case of the petitioner vide impugned orders dated 05.02.2021, therefore, there are no merits

in the writ petition and the same is liable to be dismissed.

8. This Court, having considered the rival submissions made by learned counsel for respective parties, is of the considered view that when the original

order of punishment of 5% cut in the service pension for a period of three years imposed on the petitioner, was set aside by this Court in

W.P.No.15269 of 2018 vide orders dated 4.06.2019, the respondents could not have rejected the case of the petitioner for notional promotion. The

order of punishment was set aside by this Court in W.P.No.15269 of 2018, which would mean that there is no stigma or misconduct alleged to have

been committed by the petitioner. The respondents cannot interpret the judgment of this Court by relying on G.O.Ms.No.331 dated 03.05.2013 and

reject the case of the petitioner. Therefore, the impugned orders of rejection dated 05.02.2021 are liable to be set aside and are accordingly set aside.

The respondents are directed to consider the case of the petitioner for notional promotion on par with his junior Sd. Mubashir Mehdi and pass

appropriate orders within a reasonable period of time, preferably within eight

weeks from the date of receipt of a copy of this order.

9. Accordingly, the writ petition is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.