

THE HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITION No.32083 OF 2022

ORDER:

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

“.....to issue a Writ, Order or direction more particularly one in the nature of Writ of mandamus declare the action of the respondents in denied to consider the candidature of the petitioner for promotion to the post of Joint Director of Works Accounts on mere pendency of FIR No. 06/2018, dated 19.12.2018, in DA Case in the absence of any valid Charge Sheet as on today, as illegal, arbitrary, discrimination and violation of Principles of Natural Justice and contrary the existing Government Orders issued in G.O.Ms.No.66 GAD (SERVICES.C) Department, dated 30.01.1991, consequently direct the respondents herein to consider the candidature of the petitioner for promotion to the post of Joint Director of Works Accounts in the existing vacancies without reference to the pendency of FIR No. 06/2018, dated 19.12.2018 in terms of the G.O.Ms.No.66 GAD Department, Dated 30.01.1991, on the same analogy of similar orders passed in W.P.No.25129 of 2022, dt 11.08.2022, W.P.No.5981 of 2021, dated 16.03.2021 and W.P.No.28416 of 2022, dated 06.09.2022 and pass such other orders....”

2. Heard Mr. Ramalingeswara Rao Kocherla Kota, learned counsel for the petitioner and learned Government Pleader for Services-I for the respondents.

3. The precise case of the petitioner is that he is working as Pay and Accounts Officer (WA) in the office of the Director of Works Accounts, Ibrahimpatnam and he is eligible and qualified person

for promotion for Joint Director of Works Accounts (JDWA). While the matter stood thus on 29.08.2022 Departmental Promotion Committee Meeting held and mere pendency of FIR No. 06/2018, dated 19.12.2018, the junior of the petitioner was considered for promotion and issued G.O.Ms.No.242 Finance, dated 16.09.2022. Unfortunately the petitioner's candidature has been deferred, though the name of the petitioner was shown at Sl.No.3 in the promotion list for the panel year 2021-2022 and his junior was promoted as Joint Director of Works Accounts on adhoc basis, which is illegal and arbitrary. Hence the writ petition came to be filed.

4. Learned Government Pleader for Services-I for the respondents vehemently opposed to grant relief as claimed in the writ petition and requested to dismiss the same.

5. It is contended by the learned counsel for the petitioner that since 2018 F.I.R.No.6/2018 is pending against the petitioner. Therefore the candidature of the petitioner was denied by the respondents, which is highly illegal and arbitrary.

6. Learned counsel for the petitioner placed reliance on the decision of this Court in W.P.No. 5981 of 2021, dated 16.03.2021, wherein similar issue is cropped up, by following the judgment of

Hon'ble Supreme Court in the case of "**Union of India Vs. Anil Kumar Sarkar**"¹ wherein it was held as follows:

"However, learned Government Pleader for Roads and Buildings contended that promotion is not a matter of right and he is entitled for consideration for promotion. There is no dispute with regard to the contention of the Government Pleader and this court is not inclined to issue a direction to promote the petitioner. But, this court can issue a direction to consider the case of the petitioner for promotion to the next higher cadre subject to satisfying the requirement notwithstanding the surprise check report submitted by ACB, in accordance with G.O.Ms.No.66, dated 30.01.1991".

7. In view of the above settled legal position, this Writ Petition is disposed of, in terms of the orders passed by this Court in W.P.No.5981 of 2021, dated 16.03.2021, directing the respondents to consider the case of the petitioner for promotion in the existing vacancy to the post of Joint Director of Works Accounts duly taking into consideration of the G.O.Ms.No.66, dated 30.01.1991 and pass appropriate orders within a period of eight (08) weeks from the date of receipt of a copy of this order. No costs.

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

DR.K. MANMADHA RAO, J

Date: 06.09.2022

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¹ 2013(4) SCC 161

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