

(1996) 03 AP CK 0003

Andhra Pradesh High Court

Case No: Writ Petition No. 9911 of 1992

T. Ganga Rao

APPELLANT

Vs

Chairman Karimnagar Dist.
Co-operative Central Bank Ltd.
and Others

RESPONDENT

Date of Decision: March 12, 1996

Citation: (1996) 2 ALT 659

Hon'ble Judges: G. Bikshapathy, J

Bench: Single Bench

Advocate: V.S.R. Murthy, for the Appellant; K. Ashok Reddy, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

G. Bikshapathy, J.

The Petitioner filed the Writ Petition assailing the proceedings dated 16-3-1991 (sic. 1981) issued by the 1st respondent and for a consequential direction to the Department to promote the petitioner as Asst. General Manager with retrospective effect.

2. The case experienced chequered career. The petitioner was appointed as Supervisor in the year 1959. On 6-5-1974 the petitioner was placed under suspension pending enquiry. Aggrieved by the said orders of suspension, the petitioner appears to have represented to the District Cooperative Officer who was of the opinion that the proceedings initiated u/s 59 of the Cooperative Societies Act were void ab-initio and recommended reinstatement. However no action was taken. Later disciplinary action was initiated against the petitioner by issuing charge memo dated 16-3-1981, but no progress was being made even though he suspended in the year 1974. Therefore he filed Writ Petition No. 7923/83. This Court by orders dated 13-11-1983 in W.P. (M.P.) No. 10816/1983 suspended the order of suspension of 6-5-1974. The petitioner was finally reinstated into service and posted to

Vemulawada with effect from 3-1-1989. The writ petition was finally disposed of on 10-11-1985 directing the authorities to complete the disciplinary proceedings within three weeks. But, however, it appears that no steps were taken by the Respondents. Therefore, the petitioner filed another Writ Petition in W.P. No. 4979/87 seeking direction to the authorities to complete the disciplinary proceedings and this Court on 22-9-1987 directed the authorities to complete the enquiry within five months from the date of the receipt of the Order on 15-12-1978 the 2nd respondent issued directions to initiate domestic enquiry and Enquiry Officer was appointed. But, for the reasons best known to the Respondent, the enquiry proceedings did not take place till 18-8-1988. Another enquiry officer by name K. Ananda Rao was appointed, but there was no progress. The Enquiry Officer did not commence the proceedings. It is the case of the petitioner that the proceedings are being kept pending with a view to cause irreparable damage to the service career of the petitioner. The case of the petitioner for promotion was overlooked on the alleged ground of pendency of the disciplinary proceedings. His Juniors Mr. K. Rajesham and Mr. T. Narayana were promoted to the post of Asst. General Managers. The Respondent has deliberately and intentionally failed to implement the orders of this Court and take action as ordered by this Court. The petitioner has since retired from service from 31-1-1996, yet the Respondents have neither completed the disciplinary proceedings nor considered his case for the higher post.

3. No counter has been filed.

4. Heard Mr. V.S.P. Murthy, the learned counsel for the petitioner and Mr. K. Ashok Reddy, learned Counsel for respondent.

5. From the narration of events it is seen that the petitioner was suspended on 6-5-1974 and no disciplinary action could be initiated till 1983 when the petitioner successfully challenged the order of suspension. Even though the directions were given by this Court time and again to complete the disciplinary proceeding within the time schedule fixed by this Court, the Respondent did not take any action. In W.P. No. 4978 /87 this Court issued specific directions to complete the enquiry within five months by orders dated: 22-9-1987, but the Respondents for the reasons best known to them maintained silence.

6. Now the present position is the petitioner has retired from service and his principal grievance is in the guise of pendency of the enquiry proceedings, his case was not considered. It is now well settled that mere pendency of the disciplinary proceedings is not absolute bar for considering the case of the employee for promotion. But, however in the instant case, the attitude adopted by the Respondent is un-understandable. On 10-12-1985 direction was granted by this Court to complete the enquiry within three weeks. Again on 22-9-1987 in another Writ Petition filed by the Petitioner employee a further direction was given to complete the enquiry within a period of five months. The respondents have not implemented the directions of this Court whereby they were permitted to proceed

with the enquiry on expeditious basis in the interest of the organisation and also in the interest of the Officer. No progress was made in the disciplinary proceedings and finally the petitioner was retired from service on 31-1-1996. The inordinate and unexplained delay right from 1985 till 1996 is only a clear indication that the Respondents have no inclination to proceed against the petitioner. Thus the pendency of the disciplinary proceedings cannot be pleaded as an impediment in the way of the promotion of the petitioner. The promotion is a necessary aspiration of an employee apart from being an essential condition of service. The said service condition cannot be impaired at the whims and fancies of the respondent by adopting dilatory attitude. Thus, I find that the Respondents failed to implement the directions of this Court and thereby denied the Petitioner of his promotion to the post of Asst. General Manager.

7. Under these circumstances I am inclined to hold that the action of the Respondents in not considering the case of the petitioner for promotion to the post of Asst. General Manager is wholly illegal and arbitrary.

8. The Writ Petition is accordingly disposed of and the Respondents are directed to consider the case of the petitioner for promotion to the post of Asst. General Manager without reference to the disciplinary proceedings initiated vide charge Memo dated 16-3-1981. The consideration shall be made when he became eligible for the promotion along with his juniors. The 1st respondent shall pass appropriate orders within a period of two months from the date of receipt of this order.

9. The Writ Petition is disposed of with the above directions. No order as to costs.