

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)**



**FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 27983 OF 2024

Between:

M. Venkata Kumar, S/o. M. Rangappa, Aged about 54 years, Occ: Administrative Officer, O/o. Dy. Transport Commissioner, Kurnool, R/o. H.No. 6-1-897, Kovurnagar, Ananthapur.

...PETITIONER

AND

1. The Transport Commissioner, A.P, Krishna District, Vijayawada.
2. The State of A.P., rep., by its Principal Secretary, Transport, Roads and Buildings Department, Secretariat, Velagapudi, Guntur District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the Respondents in not considering the case of the Petitioner for promotion to the post of Regional Transport Officer (RTO) without reference to the disciplinary proceedings / charge memo pending against him vide Charge Memo No.20022/15/VI/2020-18 dt 02.11.2022 as illegal, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India and consequently, direct the Respondents to promote the Petitioner to the post of Regional Transport Officer (RTO), without reference to the disciplinary proceedings / charge memo pending against him.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the Respondents to consider the case of the Petitioner for promotion to the post of Regional Transport Officer (RTO), without reference to the disciplinary proceedings pending against him pending disposal of the above writ petition. ✓

Counsel for the Petitioner : SRI POODATTU AMARENDER

**Counsel for the Respondents: SRI R.S. MANIDHAR PINGALI,
ASST. GP FOR SERVICE-II**

The Court at the stage of admission made the following: ORDER



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3331]

FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 27983/2024

Between;

1.M VENKATA KUMAR, S/O M. RANGAPPA, AGED ABOUT 54 YEARS,
OCC ADMINISTRATIVE OFFICER, O/O DY. TRANSPORT
COMMISSIONER, KURNOOL, R/O. H.NO. 6-1-897, KOVURNAGAR,
ANANTHAPUR.

...PETITIONER

AND

- 1.THE TRANSPORT COMMISSIONER, REP, KRISHNA DISTRICT.
- 2.THE STATE OF A P, REP., BY ITS PRINCIPAL SECRETARY,
TRANSPORT, ROADS AND BUILDINGS DEPARTMENT,
SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.

...RESPONDENT(S):

pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the Respondents in not considering the case of the Petitioner for promotion to the post of Regional Transport Officer (RTO) without reference to the disciplinary proceedings / charge memo pending against him vide Charge Memo No.20022/15A/1/2020-18 dt.02.11.2022 as illegal, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India and consequently, direct the Respondents to promote the Petitioner to the post of Regional Transport Officer (RTO), without reference to the disciplinary proceedings / charge memo pending against him and to pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents to consider the case of the Petitioner for promotion to the post of Regional Transport Officer (RTO), without reference to the disciplinary proceedings pending against him pending disposal of the above writ petition and to pass

Counsel for the Petitioner:

1. POODATTU AMARENDER

Counsel for the Respondent(S):

1. GP FOR SERVICES II

2.

The Court made the following:

:: ORDER ::

Heard Sri P.Amarender, learned counsel for the petitioner and Sri R.S.Manidhar Pingali, learned Assistant Government Pleader for Services appeared for respondents 1 & 2.

2. A charge memo vide No.20022/15/V1/2020-18, dated 02.11.2022 (Ex.P1) was issued against the petitioner. The petitioner submitted an explanation dated 10.10.2024 (Ex.P5). A revised seniority list of Administrative Officers of Zones 1 to 4, was prepared vide R.No.13023/2/D1/2024, dated 27.09.2024 (Ex.P7), wherein the petitioner was shown at S.No.100.

3. Learned counsel for the petitioner would submit that though the petitioner is entitled to be promoted to the post of Regional Transport Officer, the respondent authorities are not considering the case of the petitioner due to the pendency of the aforementioned charge memo.

4. Learned Assistant Government Pleader for Services would submit that the respondent authorities will consider the case of the petitioner for promotion in terms of G.O.Ms.No.257 General Administration (Ser.C) Department, dated 10.06.1999.

5. Thus, as seen from the material available on record, there is no dispute about the issuance of charge memo vide No.20022/15/V1/2020-18, dated 02.11.2022 (Ex.P1) against the petitioner and the same is pending.

6. The Government issued G.O.Ms.No.679 General Administration (Services-C) Department, dated 01.11.2008, and thereafter G.O.Ms.No.91 General Administration (Ser.C) Department, dated 12.09.2022, fixing timelines to complete the inquiry within three months in simple and six months in case of complicated cases respectively. In the case at hand, the respondent authorities flouted G.Os., deliberately. For the fault on the part of the disciplinary authority, in not concluding the inquiry, the petitioner shall not be penalized.

7. In **State of Punjab and Others v. Chaman Lal Goyal¹**, the Hon'ble Apex Court observed as follows:

".....At the same time, it is directed that the respondent should be considered forthwith for promotion without reference to and without taking into consideration the charges or the pendency of the said enquiry and if he is found fit for promotion, he should be promoted immediately."

8. In **The Government of Andhra Pradesh represented by its Principal Secretary, Revenue Department and another v. A.Rajeswara Reddy,**

¹ (1995) 2 Supreme Court Cases 570

Deputy Collector², the Division Bench of Composite High Court observed as follows:

".....Since the petitioners did not complete the departmental proceedings against the respondent even after lapse of more than one and half years, the Tribunal has rightly directed consideration of the case of the respondent for promotion without reference to the pending disciplinary proceedings, and no interference is called for with the said order."

9. Ordinarily, an employee will not be considered for promotion if disciplinary proceedings are initiated against him based on serious allegations. However, an employee cannot be denied promotion by keeping the disciplinary proceedings pending for unduly long periods.

10. Given the facts and circumstances of the case, the Writ Petition is disposed of, at the stage of admission with the consent of both the learned counsel, directing the respondent authorities to consider the case of the petitioner for promotion, if the petitioner's case is in the zone of consideration, without reference to the aforementioned charge memo. There shall be no order as to costs.

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

2010 (4) ALT 374

//TRUE COPY//

Sd/- V SAVITRI GOWRI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Transport Commissioner, A.P, Krishna District, Vijayawada.
2. The Principal Secretary, State of A.P., Transport, Roads and Buildings Department, Secretariat, Velagapudi, Guntur District.
3. One CC to Sri Poodattu Amarender, Advocate [OPUC]
4. Two CCs to GP for Service-II, High Court of Andhra Pradesh. (OUT)
5. Three C.D. Copies.

Cnr

Cnr

HIGH COURT

DATED:29/11/2024

ORDER

WP.No.27983 of 2024



**DISPOSING OF THE W.P. AT THE STAGE OF
ADMISSION WITHOUT COSTS**