

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.14571 of 2003

ORDER:

This writ petition is filed to declare action of second respondent in dismissing petitioner from service through proceedings dated 04.02.2002, which was confirmed by first respondent through proceedings dated 11.03.2003, as illegal, arbitrary, unjust, without jurisdiction and violative of Article 14 of the Constitution of India apart from violative of the principles of natural justice.

2. Petitioner while working as Junior Assistant in A.P.S.S.D.C. Limited, Mahabubnagar, was deputed to Anantapur to assist at Cash sale points in process of distribution of seeds to the farmers. Petitioner was issued a charge memo alleging that he has not remitted a sum of Rs.13,000/- towards cash sales and has not accounted for stocks worth of Rs.2,51,640/-. Thereafter, an Enquiry Officer was appointed. Basing on the report of Enquiry officer, a show cause notice was issued suggesting termination. Petitioner offered his explanation. Thereafter, petitioner was terminated from services through proceedings dated 16.02.1999 and the said order was challenged before the appellate authority. Appeal preferred by petitioner was dismissed and thereafter he preferred writ petition No.16321 of 2000 before this Court and the same was disposed of with the following order:

"In the result, the writ petition is allowed and the petitioner shall be reinstated into service. As the petitioner approached this court belatedly after disposal of W.P.No.3716/99 he is entitled to the back-wages from the date of filing of the Writ Petition. It is made clear that this order will not preclude the respondent-Corporation from framing the necessary charges and conducting fresh enquiry into the misappropriation and taking appropriate action against the petitioner. The payment of back-wages will

abide by the result of the enquiry, if any, to be conducted. No costs."

3. According to petitioner, in pursuance of order of this Court, he was reinstated and a charge memo was again issued on 13.12.2000 for the shortage of seed worth of Rs.2,51,640/-. Respondent after following due procedure, terminated him and appeal preferred by petitioner was also dismissed. Thereafter petitioner approached this Court by way of this writ petition.

4. During pendency of this writ petition, a criminal case and a civil suit were filed against petitioner in respect of the same subject matter. Both civil and criminal cases are disposed of giving findings in favour of petitioner. Now advocate for petitioner represented that in view of orders of the civil Court and the criminal Court, second respondent may be directed to reconsider the case of petitioner in terms of judgments of the civil Court and criminal Court. To support his argument, he placed a reliance on a decision of Supreme Court in ***Jasbir Singh vs. Punjab & Sind Bank and others***^[1]. In that case point before the Supreme Court was if departmental proceedings and criminal case are based on identical set of facts, evidence in both proceedings is common and employee is acquitted in criminal case whether order of dismissal already passed can be set aside or not? Hon'ble Supreme Court held in affirmative and set aside termination order.

5. Advocate for respondent on instructions represented that department has no objection to remit back the matter to the second respondent for reconsideration in the light of judgments of civil Court and criminal Court.

6. Considering the submissions of both sides and also

judgment of Supreme Court, this writ petition is disposed of directing A.P.S.S.D.C.Limited-second respondent to reconsider the case of petitioner in the light of judgments of criminal Court and civil Court in accordance with law. Second respondent shall dispose of the matter within four (04) months from the date of receipt of a copy of this order. No costs.

Miscellaneous Petitions pending in this writ petition, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 17-12-2015.

gvl

[\[1\]](#) 2006 (8) Supreme 690