

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.5897 of 2005

ORDER:

The petitioner, a retired Superintendent in the service of the Andhra University, is aggrieved by the disciplinary action taken against him. He seeks a declaration that the punishment imposed upon him is illegal and to consequently set aside the same or in the alternative direct the Andhra University to consider his representation dated 21.06.2003.

The petitioner was placed under suspension by the University on 22.05.2000 along with two other staff members in connection with a scam relating to providing jobs in the University. An enquiry was conducted in the matter by a retired District and Sessions Judge. It is the case of the petitioner that the said enquiry was held in a perfunctory manner and in violation of the principles of natural justice but, acting on the report of the said enquiry, he was issued show-cause notice dated 25.06.2002 proposing to impose the punishment of cancellation of a sanctioned increment and treating the period of suspension undergone by him as on loss of pay. The petitioner submitted his explanation thereto on 26.06.2002. The University however passed order dated 28.06.2002 holding that his explanation was unsatisfactory and imposing the punishment as proposed. The petitioner states that he was taken back in service on 28.06.2002 and thereafter retired from service on 30.06.2002. He further claimed that he made a representation on 21.06.2003 seeking review of the punishment imposed upon him but no action was taken thereupon.

The Registrar of the Andhra University filed a counter-affidavit in August, 2005, stating that the petitioner failed to attend the enquiry despite service of several notices issued by the Enquiry Officer. A memo was also said to have been served upon him for not attending the enquiry, calling for his explanation. In response thereto, the petitioner stated that he had filed W.P.No.15578 of 2001 before this Court questioning the order of suspension passed against him and as such, he could not attend the enquiry. However, by order dated 16.03.2002, this Court directed the petitioner to co-operate with the Enquiry Officer in completing the enquiry. It appears that even thereafter the petitioner failed to participate in the enquiry and upon completion of the enquiry, report dated 10.06.2002 was submitted by the Enquiry Officer. The Registrar further stated that the petitioner was found guilty of gross misconduct in allowing scope for the scam to take place and was therefore liable to suffer the disciplinary action taken against him. The Registrar denied receipt of the petitioner's

representation dated 21.06.2003 seeking review of the punishment imposed.

The petitioner failed to file a reply-affidavit rebutting the averments made in the above counter-affidavit.

Once the petitioner failed to participate in the enquiry of his own volition, it was not open to him to assail the conduct of the same on the ground that it is perfunctory or in violation of the principles of natural justice. Having consciously kept away from the enquiry, which is not shown to be irregular or illegal on any other ground, the petitioner cannot seek to escape the findings recorded therein which prompted the Andhra University to impose upon him suitable punishment. This Court therefore finds no reason to interfere in the matter.

The writ petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

4th September, 2015
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