

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS. JUSTICE ANIS

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WRIT PETITION No.16032 OF 2015

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ORDER: (per Hon'ble Sri Justice K.C.Bhanu)

This Writ Petition is filed challenging the order dated 28.04.2014 in O.A.No.3199 of 2014 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. The applicant/un-official respondent herein filed the aforementioned Original Application before the Tribunal to direct the petitioners herein to re-instate/re-enroll him as Home Guard with continuity of service, back wages and all consequential benefits and consequently declare the action of petitioner No.1 herein in removing the applicant/un-official respondent herein from service by an order vide C.No.19/RI.HG/ADD/2012, DO No.13/2012, dated 04.07.2012, and not reinstating him even after acquittal of criminal charges as illegal and arbitrary.

3. As the un-official respondent herein is said to have been involved in a case in Crime No.107 of 2012 of Adilabad I Town Police Station for the offence punishable under Section 302 of Indian Penal Code (for short, 'I.P.C.'), show cause notice was issued to him and as his explanation was not satisfactory, the order of termination was passed by the competent authority and the applicant was removed from service. Admittedly, the applicant was working as Home Guard prior to removal. After completion of investigation, the police filed a charge sheet and the case was taken on file as SC No.421 of 2012 on the file of the First Additional Sessions Judge, Adilabad. During trial of the case, on behalf of prosecution, P.Ws.1 to 12 were examined and Exs.P-1 to P-23 were got marked besides the case properties M.Os.1 to 3. As the eye witnesses and the circumstantial witnesses examined by the police have not identified the applicant as the assailant of the deceased, he was acquitted by judgment dated 28.01.2014 holding that the prosecution failed to establish the guilt of the

accused beyond all reasonable doubt for the offence punishable under Section 302 of I.P.C. Thereafter, the un-official respondent herein gave a representation to the competent authority for re-instatement. As the competent authority has not taken any action on the representation given by the applicant, he moved an Original Application before the Tribunal. The Tribunal came to the conclusion that the issue is squarely covered by the order of the Tribunal in O.A.Nos.1493 of 2013 and batch, dated 25.04.2013 and the proceedings of dismissal from service in C.No.19/RI.HG/ADD/2012, D.O.No.13/2012, dated 04.07.2012, was set aside and respondents therein were directed to reinstate the applicant into service. Challenging the same, the present Writ Petition is filed.

4. Heard learned Government Pleader for Services (Telangana) and learned counsel appearing for respondent No.1.

5. The main relief sought for in the application filed by the applicant is to re-instate/re-enroll him as Home Guard with continuity of service, back wages and all other consequential benefits is based upon the judgment dated 28.01.2014. The appointing authority has to take appropriate decision whether the un-official respondent herein can be reinstated, pursuant to the order of acquittal passed by the learned Additional Sessions Judge. The dismissal from service, vide proceedings dated 04.07.2012, is not under challenge before the Tribunal. Only the consequential relief is prayed for to set aside the removal orders dated 28.04.2014. The main relief sought for is to re-instate the applicant into service as Home Guard with continuity of his service. That aspect has to be decided by the respondents in the Original Application.

6. Therefore, the impugned order is set aside. The petitioners herein are directed to consider the case of the first respondent/applicant duly taking note of the fact of his acquittal in S.C.No.421 of 2012. The petitioners shall take appropriate decision of the representation of the un-official respondent within a period of two months from the date of receipt of a copy of the order and communicate the decision taken to the applicant within two weeks thereafter.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand dismissed.

K.C.BHANU, J

ANIS, J

Date: 15.06.2015

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