

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

WRIT PETITION No.35613 of 2012

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

This writ petition is preferred against the order passed by the A.P. Administrative Tribunal in O.A.No.5685 of 2010 dated 11.04.2012.

The respondent-applicant was working as an Armed Reserve Police Constable at Kurnool District. He was imposed a major penalty of removal from service. On an appeal being preferred thereagainst, the said order was modified to a punishment of compulsory retirement. Aggrieved thereby, he invoked the jurisdiction of the Tribunal. The charge against the respondent-applicant is that he had gone near the main door of Deputy Inspector General's residence, switched of the calling bell, kicked the main door with his booted leg in a drunken state, and to have created a scene thereafter.

In the order under challenge in this writ petition, the Tribunal took into consideration the fact the applicant had rendered more than 22 years of service; by the date of imposition of punishment, he was having merely 5 years of service; in view of the punishment of compulsory retirement he had to retire from service in 2001; and he would, otherwise, have continued upto 2015 in which year he would attain the age of superannuation. The orders of punishment of removal from service, and thereafter to that of compulsory retirement, were set aside and the matter was remanded to the 5th petitioner herein to reconsider the entire issue, and impose a lesser punishment against the respondent-applicant by passing appropriate orders. The 5th petitioner herein was directed to reinstate the respondent-applicant into service, without any backwages from the date of his compulsory retirement till the date of his reinstatement; and to take the service, from the date of compulsory retirement till

the date of reinstatement, for the purpose of computing his seniority.

Sri K.V.N.Bhupal, learned counsel for the respondent-applicant, would submit that the respondent-applicant has three unmarried daughters of marriageable age; for one night's folly, he has already suffered the punishment of having been kept out of service for the past 15 years; and, even if he is reinstated in compliance with the order of the Tribunal, he is due to retire by the end of this year.

Courts/Tribunals would not, ordinarily, interfere with the punishment imposed, pursuant to a departmental enquiry, unless it is shockingly disproportionate or it shocks the conscience of the Court. As the charge relates to indisciplined behaviour of an Armed Police Constable, besides consumption of alcohol while on duty, this Court, if its jurisdiction had been invoked directly, may not have interfered with the order of punishment imposed by the disciplinary/appellate authority. The fact, however, remains that the Tribunal, having taken a lenient view, has directed the petitioners herein to impose any punishment lesser than compulsory retirement, and reinstate the respondent-applicant into service. The Tribunal has, however, denied the respondent-applicant backwages from the date of his compulsory retirement till the date of his reinstatement on duty, and has only directed that his service, from the date of compulsory retirement till the date of reinstatement, be taken into consideration for the purpose of computing his seniority.

The jurisdiction which this Court exercises is discretionary and, unless it is satisfied that the order passed by the Tribunal is so patently illegal as to necessitate its interference, it would refrain from exercising its extra-ordinary jurisdiction under Article 226 of the Constitution of India.

Learned Government Pleader for Services would, however, contend that compliance of the order of the Tribunal would require the respondent-applicant being paid salary for the past three years from May, 2012 onwards though he did not work during this period; and he may also claim promotion as the Tribunal had protected his seniority. Ends of justice

would be met if the order of the Tribunal is modified to the limited extent that the 5th respondent shall reconsider the order of punishment, in accordance with the directions of the Tribunal, within three months from today. The respondent-applicant shall not be entitled for backwages from the date of his compulsory retirement till the date of his reinstatement in accordance with this order. The respondent-applicant shall not be entitled to claim the benefit of past service in reckoning his seniority, but shall be extended the benefit of notional increments/revision of pay scales etc, for the aforesaid period, only for the purpose of computation of his retiral benefits.

The writ petition is disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

16th April 2015.
JSU

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And
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Date: 16.04.2015

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