

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS. JUSTICE ANIS

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WRIT PETITION No.23825 OF 2014

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

This Writ Petition is filed challenging the order dated 31.12.2013 in O.A.No.9311 of 2013 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. The unofficial respondent herein/applicant filed the aforementioned Original Application before the Tribunal to call for the records relating to and connected with the impugned orders passed by the third petitioner herein vide D.O.No.04/2011, dated 19.07.2011 in removing the unofficial respondent herein/applicant from service on the ground that he was involved in a criminal case without conducting the enquiry, set aside the same as illegal and arbitrary and consequently direct the third petitioner herein to reinstate the unofficial respondent herein/applicant into service in view of the judgment passed by the learned Additional Judicial Magistrate of First Class, Armour, vide judgment dated 25.04.2012 in C.C.NO.82 of 2011 with all consequential benefits.

3. The Tribunal, upon considering the material on record, allowed the Original Application on similar lines as in O.A.No.1493 of 2013 and batch, dated 25.04.2013 setting aside the impugned proceedings issued in D.O.No.04/2011, dated 19.07.2011 by the third petitioner herein holding the same as illegal and arbitrary and the petitioners herein were directed to re-induct the unofficial respondent herein/applicant into service forthwith as Home Guard. Hence, this Writ Petition by the Government.

4. This Court, vide order dated 21.08.2014, admitted the Writ Petition

and granted interim suspension of the order dated 31.12.2013, passed by the Tribunal in the said Original Application. Aggrieved thereby, the unofficial respondent/applicant filed W.V.M.P.No.1834 of 2015 to vacate the order of interim suspension granted by this Court.

5. At request of the learned Government Pleader for Services-I (Telangana) and learned counsel for the unofficial respondent, the Writ Petition was taken up for hearing.

6. Heard both sides.

7. It is the case where the unofficial respondent herein/applicant was involved in a criminal case, that a show cause notice was issued and after calling for explanation in terms of Rule 7 of the Madras Home Guard Rules, 1949, he was removed from the service. Thereupon, police filed charge sheet in a criminal case vide C.C.No.82 of 2011 and in that case, the *defacto* complainant and other witnesses did not support the case of the prosecution and turned hostile. Therefore, the learned Magistrate found the accused not guilty for the charge under Section 384 of IPC and accordingly acquitted him under Section 248(1) of the Criminal Procedure Code. Basing on the said acquittal, the applicant filed representation to the third petitioner herein to consider his case for appointment/re-instatement as Home Guard. That representation has not been considered by the third petitioner herein.

8. In view of the fact that the removal order is solely based upon the involvement of the applicant in a criminal case, the appointing authority has to take appropriate decision on the representation of the applicant. That has not been done so far.

9. Hence, the petitioners herein are directed to take appropriate decision on the applicant's representation dated 15.06.2012, within a period

of four weeks from the date of receipt of a copy of this order and the decision taken thereon shall be communicated to the unofficial respondent herein/applicant within a period of two weeks thereafter. In case no representation is pending with the petitioners, liberty is given to the unofficial respondent herein/applicant to give fresh application to the petitioners and the petitioners shall take appropriate decision thereon within four weeks and communicate the decision taken to the unofficial respondent herein/applicant within a period of two weeks thereafter.

10. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

K.C.BHANU, J

ANIS, J

Date: 25.06.2015

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