

THE HON'BLE SRI JUSTICE K.C. BHANU
AND
THE HON'BLE MRS JUSTICE ANIS
-
WRIT PETITION No.18275 OF 2015

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

This Writ Petition, under Article 226 of the Constitution of India, is filed to call for the records relating to the order, dated 01.06.2015, in Original Application No.8763 of 2011 with VMA No.1380 of 2012, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal') and set aside the same including the impugned show cause Memo No.23464/VC.1(1)/1999, dated 29.10.2011 issued by respondent No.1 herein.

2. Petitioner, who worked as Superintendent in the office of District Medical and Health Officer, Visakhapatnam, retired from service on 30.09.2005 on attaining the age of superannuation. The allegation against the petitioner is that he was found in possession of disproportionate assets to the known source of his income to a tune of Rs.45,70,343/-, therefore, a case was registered, investigated into and thereafter charge sheet was filed, which resulted in registration of Calendar Case No.107 of 2000 on the file of the Special Judge for SPE & ACB cases, Visakhapatnam. By impugned show cause Memo, dated 29.10.2011, the petitioner was directed to give explanation, within fifteen (15) days from the date of receipt of said Memo, as to why the pension and gratuity should not be withheld permanently. Challenging the said Memo, the petitioner herein/applicant filed the aforesaid Original Application. The Tribunal, upon considering the material on record, dismissed the Original Application on the ground that it is only a show cause Memo and four (4) weeks' time was granted to submit the explanation to the said show cause Memo. Challenging the same, the petitioner filed the present Writ Petition.

3. The impugned show cause Memo, dated 29.10.2011, was issued in view of the judgment, dated 30.09.2011, in Calendar Case No.107 of 2000 passed by the Special Judge for SPE & ACB Cases, Visakhapatnam, whereby the petitioner was found guilty of the offence punishable under Section 13 (2) read with 13 (1) (e) of the Prevention of Corruption Act, 1988 and accordingly, convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/- in default to suffer simple imprisonment for a period of six months.

4. Learned counsel for the petitioner contended that as no punishment was proposed in the impugned show cause Memo, he prays to admit the Writ Petition.

5. Impugned show cause Memo was issued proposing to impose appropriate punishment consequent upon the conviction and sentence recorded by the competent Criminal Court. Basing on the said conviction, the show cause Memo was issued to the petitioner. The Tribunal extracted Rule 9 (1) of the Andhra Pradesh Revised Pension Rules, 1980 in the impugned order, which reads as follows:

“The State Government reserves themselves the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused, to the Government and to the local authority if, in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement.”

6. Basing on the conviction imposed by the competent Criminal Court, Government issued the impugned show cause Memo, which reflected the proposed punishment. Therefore, the petitioner has to give explanation to the said show cause Memo. Since time for

giving explanation to the show cause Memo has been elapsed, we grant two (2) weeks' time for filing explanation to the said show cause Memo. Uninfluenced by any observation made by the Tribunal in the impugned order, Government shall pass appropriate orders on the explanation that may be submitted by the petitioner.

7. With the above direction, 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.

JUSTICE K.C. BHANU

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JUSTICE ANIS

JUNE 25, 2015

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THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.18275 OF 2015

DATE: 25.06.2015

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