

HON'BLE SRI JUSTICE K.C.BHANU
AND
HON'BLE SMT JUSTICE ANIS
WRIT PETITION No.39685 of 2014

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

This Writ Petition is filed challenging the order, dated 01.08.2014, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal), in O.A.No.3930 of 2014, whereunder and whereby, the proceedings impugned in the O.A i.e., C.No.C2/OEPR-10/2007, R.O.O.No.292/2014, dated 23.04.2014, issued by the third petitioner herein were set aside.

2. The petitioners herein are the respondents and first respondent herein is the applicant in the Original Application. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the Original Application.

3. The brief facts of the case are that a charge memo dated 23.01.2008 was issued to the applicant alleging that while he was working as Sub-Inspector of Police at T. Sundupullai and Sambepalli Police Stations in different periods, he collected monthly mamools from one Reddy Narayana and allowed smuggling of Red Sanders, for which he submitted an explanation. An Enquiry Officer was appointed on 09.02.2008 to conduct the enquiry against the applicant and thereafter, the enquiry was transferred to the Additional Superintendent of Police, Kurnool, vide proceedings dated 27.11.2009. After conducting enquiry, the Enquiry Officer submitted a report holding that the charge levelled against the applicant were not proved. The third respondent, who is the Disciplinary Authority, disagreed with the findings of the Enquiry Officer and communicated his reasons for his disagreeing, and directed the applicant to submit his explanation. The

Disciplinary Authority relied upon the evidence of PWs.13, 14, 15 & 19 and Exs.P1, P2, P3, P4, P8, P13 & P15 for disagreeing with the findings of the Enquiry Officer. The applicant submitted an explanation stating that there was no evidence on record to prove the charges levelled against him. Being not satisfied with the explanation, the Disciplinary Authority imposed a major penalty of postponement of increments for a period of two years with cumulative effect on future increments and pension. Challenging the punishment, the applicant filed the O.A before the Tribunal. The Tribunal after perusing the material available on record set aside the punishment order on the ground that there was no evidence to prove the charges levelled against the applicant. Challenging the same, the present writ petition is filed.

4. Heard the learned Advocate General for the State of Andhra Pradesh and the learned counsel appearing for the respondent herein.

5. There cannot be any dispute that in the matter of disciplinary cases, the Disciplinary Authority; in case of appeal, the Appellate Authority, and in the case of revision the Revisional Authority, are competent to impose appropriate punishment. While the misconduct has been established by preponderance of probabilities in the departmental proceedings, ordinarily, the Court or the Tribunal would not interfere with the punishment imposed by the Disciplinary Authority, provided the findings are based on the admissible evidence on record. If it is a case of no evidence, then only the Court or the Tribunal would interfere with the punishment imposed by the Disciplinary Authority. The Disciplinary Authority while disagreeing with the Enquiry Officer's report, placed reliance on the evidence of PWs.13, 14, 15 & 19, who are the former police

officials. We have perused their evidence to know whether it is a case of no evidence or not. These four witnesses did not state anything against the applicant with regard to the misconduct alleged against him. Similarly, the documents Exs.P1 to P5, P8 & P13 cannot be taken as evidence because Ex.P3, P4 & P5 are the statements recorded during the course of conducting an enquiry and they are only confessional statements recorded by the police during the course of investigation, and in so far as Exs.P1, P2, P8 & P13 are concerned, they are only interrogatory statements made by PWs.13, 14, 15 & 19. Admittedly, they were not examined as witnesses. PWs.1 to 12, who are the eye witnesses to the misconduct alleged against the applicant, did not support the case of prosecution. They have categorically stated that they have not given any monthly mamools to the applicant. Therefore, it is a case of no evidence. That is the reason why, the Tribunal rightly interfered with the punishment order passed by the third respondent. Therefore, we are of the view that the order passed by the Tribunal needs no interference and in the absence of any perverse findings, the writ petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. No order as to costs. The miscellaneous petitions, if any, pending in the Writ Petition, shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 22.01.2015

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