

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND**

THE HON'BLE MRS JUSTICE ANIS

-
WRIT PETITION No.19358 OF 2015

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

This writ petition is filed challenging the interim order, dated 09.10.2014, in M.A.No.3621 of 2013 in O.A.No.5764 of 2011 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. Petitioner/applicant filed the aforementioned Original Application before the Tribunal to call for the records relating to and connected with orders of respondent No.1 vide Proc.No.1565/Sup/1999, dated 08.06.2011, pursuant to the enquiry report of respondent No.2, dated 25.3.2010, and to quash or set aside the same with all consequential benefits. The said Original Application was dismissed for default on 20.9.2013 on the ground that though the matter was posted under the caption of "Dismissal", there was no representation on behalf of the applicant when called for. Hence, the applicant filed M.A.No.3621 of 2013 to restore O.A.No.5764 of 2011 to its original file by setting aside the dismissed for default order, dated 20.9.2013.

3. The Tribunal, upon considering the material on record, dismissed the aforementioned Miscellaneous Application. Challenging the same, the applicant filed the present writ petition.

4. Heard both sides.

5. The aforementioned Original Application was dismissed for default as there was no representation on behalf of the applicant when the matter was called. On the ground that the application for

restoration of the aforementioned Original Application was not filed on the same day of dismissal, the aforementioned Miscellaneous Application was dismissed. Proper explanation was given by the petitioner for not attending the Court on the day when the Original Application was called. The petitioner's counsel was engaged in a case before this Court and by the time, she reached the Tribunal, the Original Application was dismissed. Even if there are any lapses on the part of the counsel, the party cannot be made to suffer. As proper explanation is given by the petitioner for the absence of his counsel before the Tribunal, the impugned order is liable to be set aside.

6. Accordingly, the Writ Petition is allowed setting aside the impugned order and restoring O.A.No.5764 of 2011 to its file. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 01.07.2015
AMD

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