

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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WRIT PETITION No.22581 of 2013

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

This Writ Petition is preferred by the Government against the order passed by the Andhra Pradesh Administrative Tribunal in O.A.No.6462 of 2011 dated 22.11.2012. The respondent in this Writ Petition retired from service on 30.06.2005. A charge memo was issued to him on 21.07.2007 which was subjected to challenge in O.A.No.4874 of 2007. The said charge memo was initially suspended by the Tribunal. Thereafter, by order dated 29.03.2010, O.A.No.4874 of 2007 was dismissed directing the respondents therein to conclude the disciplinary proceedings, initiated against the respondent herein pursuant to the charge memo, within three months from the date of receipt of a copy of the order in view of the circular memo dated 28.07.2003 issued by the Government. The Tribunal made it clear that, if disciplinary proceedings were not concluded within the time stipulated, the same shall be deemed to be dropped.

The order of the Tribunal, in O.A.No.4874 of 2007 dated 29.03.2010, has attained finality and is, therefore, binding on the parties thereto which includes the petitioners herein. A copy of the order of the Tribunal in O.A.No.4874 of 2007 is said to have been received by the Government on 28.05.2010. Consequently the order of the Tribunal, in O.A.No.4874 of 2007 dated 29.03.2010, required the petitioners herein to complete disciplinary proceedings by 28.08.2010.

On the ground that no explanation was submitted to the charge memo, the petitioners herein issued show cause notice dated

19.06.2010 proposing imposition of 50% cut in pension. The respondent-applicant submitted his reply thereto on 16.07.2010 contending that no punishment could be imposed without an enquiry being conducted in this regard. Eventually an enquiry was conducted, and an order of punishment of 50% cut in pension was imposed on the respondent-applicant on 14.06.2011, questioning which he filed O.A.No.6462 of 2011.

O.A.No.6462 of 2011 was allowed by the Tribunal, by its order dated 22.11.2012, holding that, since the enquiry was not completed within the stipulated time, and the delay in passing orders was caused by the petitioners herein for which no reasons were assigned, the earlier order of the Tribunal required the disciplinary proceedings as deemed to have been dropped. In allowing the O.A., the Tribunal relied on its earlier order in O.A.No.4555 of 2003.

Learned Government Pleader for Services would contend that the delay, in completion of the enquiry, was on account of the respondent-applicant as it was he who, in his explanation dated 16.07.2010, had sought for an enquiry. It is not in dispute that the rules require an enquiry to be caused before imposing punishment of 50% cut in pension. The earlier order of the Tribunal required disciplinary proceedings to be completed within three months. Even from the date of the explanation submitted by the petitioners on 16.07.2010, disciplinary proceedings were not completed within three months thereafter; and it is more than sixteen months, after the respondent submitted his explanation on 16.07.2010, was the order of punishment imposed on him.

In the light of the earlier order of the Tribunal in O.A.No.4874 of 2007 dated 29.03.2010, which is a judgment *inter-partes* and is binding on the petitioners herein, the Tribunal has rightly come to the conclusion that the charge memo is deemed to have been dropped.

The order of the Tribunal does not, therefore, necessitate interference in proceedings under Article 226 of the Constitution of India.

It is made clear that this Court has not expressed any opinion on the validity of the circular memo issued by the Government, requiring disciplinary proceedings to be completed within 3/6 months, or on the question whether disciplinary enquiry should, in each case, be completed within 3/6 months. It is only because the earlier order in O.A.No.4874 of 2007 dated 29.03.2010 was not questioned by the petitioners herein and has attained finality, and as the order therein is binding

inter-partes, are the petitioners herein disentitled from being granted any relief.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

01st April, 2015.

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