

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS. JUSTICE ANIS

—

WRIT PETITION No.13968 OF 2014

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

This Writ Petition is filed challenging the interim order dated 14.03.2014 in M.A.No.3618 of 2013 in O.A.No.603 of 2013 with C.A.No.1635 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 direct the respondents therein to consider the case of the applicant for promotion to the post of Regional Transport Officer without reference to the impugned Charge Memos issued in proceeding Nos.11164/V1/2003-1, dated 16.09.2005 and 3812/V4/2011, dated 05.08.2011 and to declare the action of the respondents therein as illegal and arbitrary.

3. The Tribunal, upon considering the material on record, issued notice to the respondents therein and passed the following interim order:

“Pending disposal of the O.A., the respondents are directed to finalize the disciplinary proceedings within three months from the date of receipt of this order or else, they shall stand terminated. In the meanwhile, the promotion of the applicant to the post of Regional Transport Officer shall be considered without reference to the Charge Memos issued in proceedings Nos. 11164/V1/2003-1, dated 16.09.2005 and 3812/V4/2011, dated 05.08.2011.”

Subsequently, M.A.No.3618 of 2013 in the said Original Application was filed by the respondents therein seeking extension of time for a period of six more months to conclude the two disciplinary

proceedings against the applicant and the same was dismissed by the Tribunal. Challenging the dismissal order passed by the Tribunal in M.A.No.3618 of 2013 in O.A.No.603 of 2013 with C.A.No.1635 of 2013, the present Writ Petition is filed.

4. This Court, vide order dated 29.04.2014, admitted the Writ Petition and granted interim suspension of the order dated 14.03.2014, passed by the Tribunal in the said Miscellaneous Application.

Thereupon, the unofficial respondent/applicant filed W.V.M.P.No.1612 of 2014 to vacate the order of interim suspension granted by this Court.

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

6. Heard both sides.

7. The issue involved in this case is as to whether the Tribunal can fix a time limit for taking appropriate decision in disciplinary case or not and in case the time limit has not been fixed, whether the disciplinary proceedings shall stand terminated or not.

8. As far as this aspect of the case is concerned, it has been brought to the notice of this Court by the learned Government Pleader for Services II (Telangana) that entire enquiry was conducted and the enquiry officer has submitted a report. The disciplinary authority sought opinion from the Vigilance Commissioner for taking appropriate decision. In view of change of circumstances, the order of the Tribunal in directing the respondents therein to finalize the disciplinary proceedings within three months from the date of receipt of that order or else, they shall stand terminated is set aside.

9. In so far as the promotion of the applicant to the post of Regional

Transport Officer is concerned, the grievance of the Government is that in view of the Charge Memo issued on 05.08.2011, he is not entitled for promotion. The Charge Memo issued on 16.09.2005 has to be dropped for the reason that the enquiry officer came to the conclusion that the charges have not been proved. It is not the case of the Government that because of the lapse or delaying tactics of the delinquent officer, proceedings could not be initiated. Certain procedure has been adopted under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short, 'Rules'), where the enquiry officer has to follow those rules. Those rules have been clearly violated by the enquiry officer as well as the disciplinary authority and even withholding of promotion to the higher post is not a major punishment in terms of Rule 9 of Rules. It is a minor punishment. For that there is nothing to conduct any enquiry.

10. In view of the above, the disciplinary authority is at liberty to take appropriate decision in accordance with law in pursuance of the Charge Memo dated 05.08.2011. It is made clear that this order will not preclude the consideration of the unofficial respondent herein for promotion to the higher post without reference to the Charge Memo dated 05.08.2011.

11. Accordingly, this Writ Petition is partly allowed in terms thereof. 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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