

HON'BLE SRI JUSTICE K.C.BHANU
AND
HON'BLE SMT JUSTICE ANIS
WRIT PETITION No.16052 of 2015

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

This writ petition is filed challenging the order dated 26.08.2013, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, (for short, 'the Tribunal') in O.A.No.1497 of 2011 with C.A.No.700 of 2011, whereunder and whereby the Original Application filed by the petitioner was dismissed on the ground that the punishment imposed cannot be held shockingly disproportionate to the proved misconduct.

2. The brief facts of the case are that the petitioner has retired from service on 31.01.2010, while working as Zilla Sainik Welfare Officer, Mahaboobnagar, on attaining the age of superannuation. While he was working at Nizamabad District, it came to light that he has adopted fraudulent methods while functioning as Zilla Sainik Welfare Officer. The Government initiated disciplinary action against him by placing him under suspension and serving articles of charge, for which he submitted his written statement. The Deputy Secretary to Government, Home (Courts) Department conducted departmental enquiry and submitted his report holding that charge Nos.1 to 3 and 7 are partly proved, charges 4, 5 & 9 are proved and Charge No.6 i.e., temporary misappropriation is proved against him. Government, after perusing the same, dismissed the petitioner from service and sought for concurrence of Andhra Pradesh Public Service Commission, Hyderabad. But, the Andhra Pradesh Public Service Commission, advised to impose penalty of 50% cut in pension for 15 years. Therefore, the Government by accepting the advice of Andhra Pradesh Public Service Commission, imposed the said punishment vide

proceeding in G.O.Rt.No.1175 dated 14.07.2010. Thus, the applicant filed the above Original Application assailing the legality of the said proceedings. But, the Tribunal dismissed the said Original Application. Challenging the same, the present Writ Petition is filed.

3. The learned counsel appearing for the petitioner contended that the procedure to be followed for conducting the enquiry has not been followed in terms of the rules governing the service conditions; that the punishment is shockingly disproportionate to the proved misconduct and hence, prays to admit the writ petition.

4. On the other hand the learned Government Pleader appearing for the State of Telangana contended that it is a case of misappropriation of funds and manipulation of records and therefore, on the advise of Andhra Pradesh Public Service Commission, the Government rightly imposed the penalty of 50% cut in pension for 15 years against the petitioner and hence, prays to dismiss the writ petition.

5. Though it is contended by the learned counsel for the petitioner that procedure has not been followed in terms of the rules governing the service conditions, as seen from the record, there is no irregularity and illegality in conducting the departmental enquiry by the enquiry officer. What all contended in the Original Application was that the explanation given by the petitioner has not been taken into consideration and the imposition of punishment in the proceedings are shockingly disproportionate to the proved charges. The findings of the Tribunal are based upon the proper appreciation of evidence on record collected by the enquiry officer. No irregularity was brought to the notice of this Court in conducting the enquiry. The enquiry was conducted after giving reasonable opportunity to the petitioner and the findings of the

enquiry officer are based on some material on record. Thus, this Court cannot interfere with the findings of the Tribunal.

6. In so far as the fact that punishment is shockingly disproportionate to the proved misconduct is concerned, as seen from the charges, to the conscience of this Court, it is a case of temporary misappropriation. Having collected the rents from the tenants, the petitioner has not deposited the amount for a period of one year, which means he had misappropriated the amount temporarily. The said allegation made against the petitioner is a serious misconduct and thus, under no stretch of imagination, it can be said that punishment imposed is not disproportionate to the proved misconduct. Therefore, there are absolutely no grounds to allow the petition and it is devoid of merits.

7. In view of the above discussion, the Writ Petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 25.06.2015

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