

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

W.P.No.10249 of 2002

Between:

S. Adinarayana

... Petitioner/Appellant (s)

And

Senior Divisional Manager
and 2 others

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 13.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | Yes/No |

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
WRIT PETITION No.10249 OF 2002

ORDER

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The case of the petitioner is that he joined the service of respondent organisation on 23.05.1989 as sub-staff and the said post was confirmed from 26.11.1989 and on 01.12.1995, he was promoted as Record Assistant drawing the pay of Rs.4,445/-. It is submitted that one K.Damayanti made a complaint against the petitioner in the year 1999 and a crime was registered in Crime No.336/99 and thereafter the charge sheet was filed in CC.No.774/1999 on the file of 3rd Metropolitan Magistrate, Visakhapatnam under Section 417 of I.P.C. The petitioner thereafter went on leave and joined the office on 06.08.1999; and 07.08.1999, he was taken into police custody and was released on bail on 26.08.1999. Subsequently, he joined the duty, but failed to bring the same to the notice of the 1st respondent. Though he submitted the said fact in his explanation dated 30.06.2000 in pursuance of the charge sheet dated 22.04.2000, an enquiry was ordered by the 1st respondent by appointing an Enquiry Officer. The Enquiry Officer after enquiry gave a report on 29.03.2001, basing on which the final order was passed on 30.07.2001 by the 1st respondent-Divisional Manager under Regulation 39(1) (d) of Life Insurance Corporation of India (Staff) Regulation, 1960 imposing penalty on the petitioner reducing the basic pay by one stage under the Regulations. Further, basing on the charge sheet, when the 3rd Metropolitan Magistrate, Visakhapatnam convicted the petitioner and ordered to undergo simple imprisonment of one year and for payment of Rs.1000/-. Against the said order, the petitioner filed a criminal appeal No.116/2000 and the said appeal was disposed of on 07.11.2001 reducing the punishment to one month from one year. Against the same, the petitioner preferred criminal R.C.No.1292/2001 and this Court vide interim order dated 10.11.2001 suspended the sentence on furnishing a bond of Rs.5000/- and the criminal revision petition is pending. The 1st respondent once again contemplated to

take action against the petitioner proposing to remove him from service vide order dated 07.06.2002. Though the impugned order was dispatched to the petitioner's address, the same was not served him as he was on leave. The petitioner further contends that once the Disciplinary authority conducted enquiry and imposed punishment, again the respondent authority cannot issue suspension order. Aggrieved by the action of the respondents, the present writ petition is filed.

Counter is filed by the respondents stating that basing on the complaint of one K.Damayanthi, crime was registered against the petitioner under Section 417, 420 read with 34 IPC. Basing on the same, a show cause notice was issued on the petitioner on 28.06.2001 before imposing the punishment of reducing basic pay by one stage. It is also stated that earlier punishment was imposed on the petitioner for his failure to report about his arrest pending criminal case and that has nothing to do with the present punishment of removal from service. Hence, the present punishment was imposed on the petitioner for conviction by Criminal Court.

Heard the learned counsel for the petitioner and the learned Standing counsel for the respondents.

Learned counsel for the petitioner submits that though the petitioner was removed from service on 07.06.2002, basing on judgment of the Hon'ble Supreme Court in Criminal Appeal No.265 of 2004. He further submits that the representation of the petitioner dated 28.07.2015 may be disposed of by considering his case afresh.

Learned Standing counsel for the respondents submits that the petitioner has alternative remedy of appeal under Regulation 40 of Life Insurance Corporation of India (Staff) Regulation, 1960.

In this case, it is to be seen that it is not clear from the petitioner's affidavit as to what relief the petitioner is seeking for except stating that he was punished for the same incident twice by order dated

30.07.2001 imposing penalty of reduction in the basic pay by one stage and again by order dated 07.06.2002 imposing penalty of removal from service. The respondents have clearly explained that the punishment imposed vide order dated 30.07.2001 is for suppressing the fact by the petitioner that he was in the custody of police and punishment imposed vide order dated 07.06.2005 is on the basis of conviction by the Criminal Court as confirmed by the Appellate Court. Though the appellate Court has reduced the sentence, the Apex Court has confirmed the guilt and upheld the conviction in criminal appeal No.265 of 2004. When the removal of service is basing on the conviction by the Criminal Court, I do not see any ground to entertain the writ petition.

Accordingly, the writ petition is dismissed. However, it is open for the petitioner to avail alternative remedy available under law. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER

REDDY,J

Date: 13.08.2015

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