

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No. 13650 of 2006

ORDER: (*Per VRS,J*)

The wife of a deceased Lower Selection Grade official in the Department of Posts and Telegraphs has come up with the present writ petition, challenging an order of the Central Administrative Tribunal, refusing to set aside the order of dismissal of her husband.

2. Heard Mr. Ch. Ravinder, learned counsel for the petitioner, and Mrs. S. Siva Kumari, learned standing counsel appearing for the Central Government.

3. The petitioner's husband was issued with a charge memo on 17.12.1986, when he was working as a Sub-Post Master. An enquiry followed and the petitioner's husband was imposed with a penalty of dismissal from service, by an order, dated 18.07.1988.

4. Simultaneously, there was also a criminal prosecution for alleged offences under Sections 409, 420 and 468 IPC. But, both the trial Court as well as this Court acquitted the petitioner's husband.

5. After the order of acquittal, the petitioner's husband filed an original application in O.A.No.1251 of 1997 on the file of the Central Administrative Tribunal. The Tribunal passed an innocuous order, dated 09.03.1999, to consider his representation. But, the respondents rejected his representation, by an order, dated 31.01.2000.

6. Challenging the said order, the petitioner filed an application in O.A.No.1544 of 2002 on the file of the Tribunal. The Tribunal dismissed the application, forcing her to come up with the above writ petition.

7. This is not a case of dismissal from service, pursuant to conviction by a criminal Court. This is a case where the petitioner's husband was proceeded departmentally, charges were framed, and after conducting an enquiry, the penalty of dismissal was imposed. The original order of penalty of dismissal passed way back on 18.07.1988 attained finality, since the petitioner's husband never challenged it, on the ground of violation of any statutory Rules or principles of natural justice or on the ground of proportionality. Therefore, the question of reopening the penalty imposed, pursuant to disciplinary proceedings, merely on the basis of subsequent acquittal by the criminal Court, does not arise. Hence, even the original application filed by the petitioner's husband in O.A.No.1251 of 1997,

on the basis of acquittal was not maintainable. Therefore, the respondents were right in rejecting the request, by the order, dated 31.01.2000. Hence, we find no justification to interfere with the order of the Tribunal. Therefore, the Writ Petition is dismissed.

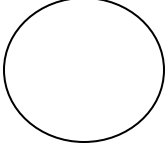
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

U. DURGA PRASAD RAO, J.

6th December, 2016
cbs





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