

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 40468 of 2016

ORDER: (*Per VRS,J*)

Aggrieved by the dismissal of his original application, seeking reinstatement on the basis of acquittal by the criminal Court, an ex-employee of the Andhra Pradesh Public Service Commission has come up with the present writ petition.

2. Heard Mr. M. Ratna Reddy, learned counsel for the petitioner.

3. The petitioner was the 1st accused in C.C.No.53 of 1990 on the file of the VII Additional Munsif Magistrate, Guntur. The offences alleged against him are under Sections 120B, 381, 411, 414, 420 and 120 IPC. By a judgment, dated 26.11.2000, the trial Court convicted him for various offences and imposed a penalty of imprisonment as well as fine.

4. On the basis of the conviction, the petitioner was dismissed from service, by proceedings, dated 06.12.2000. The conviction was upheld by the IV Additional Sessions Judge, Guntur, on a criminal appeal in Crl.A.No. 616 of 2000. But, the same was reversed by this

Court, on a criminal revision case filed by the petitioner in CrI.R.C.No.1430 of 2001, by judgment, dated 21.03.2003.

5. Based upon the order of acquittal, the petitioner filed an original application in O.A.No.2655 of 2003 before the A.P.Administrative Tribunal, seeking reinstatement. The Tribunal disposed of the said original application, by an order, dated 30.04.2003, directing the respondents to consider and pass orders on the representation of the petitioner. Pursuant to the said order, the A. P. Public Service Commission passed an order, dated 27.05.2003, the operative portion of which reads as follows:

“Sri B. Koti Reddy is hereby informed that there is no statutory rule which specifically provides for setting aside the order of dismissal passed under Rule 25(1) of the A.P.Civil Services (CC&A) Rules, 1991, if the conviction is set aside later. Further, the matter is being carried to the Hon’ble Supreme Court of India against the orders of acquittal dt.21-3-2003 passed by the Hon’ble A.P.High Court, as per orders of Government in reference 4th cited. The undersigned therefore finds no reason to reinstate him into service in the interest of the protecting the confidential nature of duties of this office and in public interest as well as in view of the legal proceeding being contested before Supreme Court of India. His representation is disposed of accordingly.”

6. Unfortunately, the petitioner allowed the said order to go unchallenged and simply waited for the outcome of the special leave petitions filed before the Supreme Court. It appears that the Supreme Court originally ordered notice in S.L.P. (Criminal) Nos.3856 to 3860

of 2003. However, those criminal appeals were dismissed for non-prosecution on 09.04.2008. The applications for restoration and condonation of delay were dismissed by the Supreme Court subsequently.

7. The petitioner, who was in slumber at that time, woke up in 2015 and filed an application before the Tribunal seeking reinstatement. Since the application was barred by time, he filed M.A.No.543 of 2015 for condonation of delay of 10 years 8 months and 16 days. The Tribunal refused to condone the delay and the petitioner is before us.

8. In our considered view, the Tribunal was justified in refusing to condone the delay. The petitioner approached the Tribunal, immediately after the order of acquittal passed by this Court. The Tribunal directed a consideration of his case. But, the respondents rejected the request, by an order, dated 27.05.2003, and that order was not challenged by the petitioner for a period of nearly 12 years. Even if the pendency of appeals before the Supreme Court is taken to be a valid excuse (In our opinion, it cannot be a justification), then the petitioner is guilty of non-action from 2008, since the Supreme Court dismissed the criminal appeals for non-prosecution on 09.04.2008. From that date, the petitioner waited for 7 years to go before the

Tribunal. Hence, we find no merits in the writ petition. Therefore, it is dismissed.

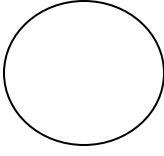
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

2nd December, 2016
cbs





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