

THE HONBLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 32114 of 2014

ORDER: *(Per the Hon'ble Sri Justice V Ramasubramanian)*

The State has come up with the above writ petition challenging an order passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Administrative Tribunal'), modifying the penalty of 100% cut in the pension imposed upon the first respondent herein.

Heard the learned Government Pleader for Services (AP) and Mr. R. Satyanarayana Murthy, learned counsel for the first respondent.

When the first respondent was working as a Mandal Revenue Officer, the Anti Corruption Bureau trapped him on 06.11.2001. The trap led to the initiation of the disciplinary proceedings before the Tribunal for Disciplinary Proceedings in a Tribunal Enquiry Case No. 55 of 2003.

In the meantime, the petitioner attained superannuation and he was permitted to retire without prejudice.

Eventually, the Tribunal for Disciplinary Proceedings, by a report dated 19.11.2005, held the charges proved. Therefore, the first respondent was imposed with the penalty of 100% cut in pension as well as gratuity, by G.O.Rt.No.250, Revenue (Vig.II) Department, dated 15.02.2013.

Challenging the said penalty, the first respondent filed an application in O.A.No.3080 of 2013. The Administrative Tribunal allowed the application partly, modifying the penalty into one of 50% cut in pension as well as gratuity, from 100% cut. The Government has come up with the above writ petition aggrieved by the said order.

It is interesting to note that the Administrative Tribunal did not set aside the finding recorded by the Tribunal for Disciplinary Proceedings.

Once the finding of the Tribunal for Disciplinary Proceedings about the acceptance of illegal gratification is confirmed by the Administrative Tribunal, then the Administrative Tribunal cannot interfere with the quantum of penalty, especially in cases of this nature.

It is contended by the learned counsel for the first respondent that the Administrative Tribunal recorded the finding only on presumptions and surmises and that the allegation of demand even according to the Administrative Tribunal was not proved.

But that is hardly a matter of concern. Once it is a case of trap and once the Tribunal for Disciplinary Proceedings, which is a special Tribunal constituted for the conduct of disciplinary enquiries relating to corruption, holds that the said charge is proved, the Administrative Tribunal cannot grant a relief without interfering with the said finding.

As a matter of fact, the first respondent has not come up with any writ petition challenging either the findings of the Administrative Tribunal or its refusal to grant total relief. Therefore, we are of the considered view that in cases of this nature, the Administrative Tribunal could not have modified the penalty once the finding of acceptance of illegal gratification is upheld.

Hence, the Writ Petition is allowed. The order of the Administrative Tribunal is set aside. There will be no order as to costs.

Pending Miscellaneous Petitions shall stand closed.

V. RAMASUBRAMANIAN, J

(G. SHYAM PRASAD, J)

Date: 01.11.2016

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