

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.14627 of 2016

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Date: 28.04.2016

Between:

P.Rajasekhara Babu

.. Petitioner

and

The Govt. of A.P.,
rep. by its Prl.Secretary
Hyderabad and 4 others

.. Respondents

Counsel for the petitioner :

Mr.K.Anantha Rao

Counsel for respondent Nos.1 to 4:

GP for Services (AP)

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The Court made the following:

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Order : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed by the applicant in OA.No.6389 of 2015 feeling aggrieved by Order, dated 17.02.2016, of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), dismissing the said OA as infructuous.

We have heard the learned Counsel for the petitioner and perused the record.

The petitioner was an SPF constable. Disciplinary proceedings were initiated against him and after conclusion of the enquiry, a final show cause notice was issued to him by respondent No.4 on 30-09-2015. Assailing the same, the petitioner filed OA.No.6389 of 2015. The said OA was admitted but no interim order restraining respondent No.4 from proceeding further in pursuance of the said show cause notice was granted. During the pendency of the said OA, a penalty of compulsory retirement was imposed on the petitioner. Challenging the same, the petitioner filed OA.No.274 of 2016, which was admitted by the Tribunal. In view of the said subsequent event, the Tribunal has dismissed OA.No.6389 of 2015, filed questioning the show cause notice, as having

become infructuous.

At the hearing, the learned Counsel for the petitioner submitted that in view of Section 19 (4) of the Administrative Tribunals Act, 1985 (for short 'the Act'), respondent No.4 ought not to have passed the final order and that therefore, such an order being nonest, OA.No.6389 of 2015 has not become infructuous.

In order to appreciate the above submission of the learned Counsel for the petitioner, Sub-section (4) of Section 19 of the Act, needs to be considered, which reads as under:

“19.Applications to Tribunals:

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3.....

4. Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.”

From a reading of the above-reproduced provision, it is evident that once the Tribunal is seized of the subject matter raised by way of an application after the same was admitted, no appeal or representation in relation to such matter shall thereafter be entertained. In the instant case, respondent No.1 has not entertained any appeal or representation with respect to the subject matter of OA.No.6389 of 2015 viz., the show cause notice. As noted herein before, though the validity of the show cause notice was questioned in the said OA by the petitioner, in the absence of a restraint order passed by the Tribunal, the latter proceeded with the consideration of the issue pertaining to the punishment to be imposed on the petitioner and passed a final order. Therefore, the order passed by respondent No.1 does not fall within the scope and ambit of Sub-section (4) of Section 19 of the Act. Hence, with the passing of the final order imposing the penalty of compulsory retirement on the petitioner, OA.No.6389 of 2015 filed questioning the show cause notice has become infructuous as the show cause notice has got merged with the final order passed by respondent No.1 and even after

dismissal of OA.No.6389 of 2015, its validity can as well be gone into in OA.No.274 of 2016 filed questioning the final order itself. In this view of the matter, no issue for adjudication in OA.No.6389 of 2015 survived for consideration and the Tribunal has rightly dismissed the same as infructuous.

In the analysis as above, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.18205 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(M.S.K.Jaiswal, J)

Dt: 28th April, 2016
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