

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.23356 of 2016

ORDER:

The petitioner was appointed as Sweeper in the year 1990 in the third respondent temple. He was promoted as Watchman thereafter. While so, he was suspended from service on 28.06.2010 on the allegation that he has misappropriated certain amount at the time of counting the hundi collection. A case was registered in Crime No.92 of 2010 under Section 381 of IPC and a charge sheet was filed in C.C.No.563 of 2010 before the learned Judicial Magistrate of First Class, Bhadrachalam. The petitioner was acquitted in the said case on 07.10.2013. The department also initiated departmental enquiry simultaneously with the pendency of the above criminal case and five charges were framed against the petitioner. The Enquiry Officer held that the charges were proved. Based on the said enquiry report, the petitioner was removed from service on 14.04.2011 by respondent No.3. Against the said order the petitioner preferred an appeal to the Chairman of the temple, who confirmed the order of respondent No.3 on 27.07.2011. He filed a revision petition before respondent No.2 and the same was allowed on 21.05.2015 directing respondent No.3 to reinstate the petitioner into service. Consequently, respondent No.3 issued proceedings on 01.06.2015 reinstating the petitioner into duty as Sweeper in the existing vacancy as the original Watchman post was not vacant. The petitioner submitted a representation to respondent No.3 on 31.07.2015 for treating the suspension/dismissal period as on duty and for payment of consequential benefits by implementing the Pay Revision Commission. When no action was taken, he submitted another representation on 10.09.2015. However, respondent No.3 passed an order on 14.01.2016 rejecting the request of the petitioner for regularization of the period of suspension as on duty on the ground that the learned Magistrate has not given any direction with regard to treatment of the period. Challenging the same, the present Writ Petition is filed.

Heard the learned Counsel for the petitioner and the learned Standing Counsel for respondent No.3.

The treatment of the period of suspension/dismissal is an administrative act and the competent authority has to take the decision on this aspect. It appears that the petitioner already submitted a representation on 25.06.2016 in this regard.

In view of the above, this Writ Petition is allowed by setting aside the order of the third respondent dated 14.01.2016 in so far as the treatment of the period of suspension/dismissal as on duty is concerned and the third respondent is directed to consider the representation of the petitioner dated 25.06.2016 in accordance with law and pass appropriate orders, within a period of three months from the date of receipt of a copy of this order. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

12.08.2016

vs