

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.26594 of 2015

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04.03.2016

Between:

The State of Telangana,
represented by its Principal Secretary,
B.C.Welfare Department, Hyderabad and others

..Petitioners

And

L.Galanna and another

..Respondents

Counsel for the petitioners: Mr.S.Sharat Kumar,
Special Government Pleader (TS)

Counsel for respondent No.1: Mr.G.Seena Kumar

Counsel for respondent No.2: --

The Court made the following:

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

Liberation of respondent No.1 from a long drawn disciplinary proceeding at the hands of the petitioners by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal') – respondent No.2, is assailed in this writ petition.

2. In the manner the writ petition is proposed to be disposed of, it is not necessary to refer to the facts in detail. It will suffice to observe that respondent No.1, who was working as Assistant B.C. Welfare Officer, was subjected to a disciplinary proceeding. A charge memo was issued on 24.10.2003, under which, four charges were framed against respondent No.1. Similar proceedings were initiated against four other employees. Not being satisfied with the explanation, dated 13.12.2003, offered by respondent No.1, an enquiry officer was appointed and an enquiry was held. The enquiry officer submitted his report on 27.12.2004, holding that charge No.1 was proved, charge No.2 was partly proved and charge Nos.3 and 4 were not proved against respondent No.1. Based on the said enquiry report, a show cause notice was issued on 16.02.2005 to respondent No.1 proposing punishment of stoppage of two annual grade increments with cumulative effect. In reply thereto, respondent No.1 submitted his explanation on 18.03.2005. For more than three years therefrom, nothing was heard from the petitioners before respondent No.1 retired from service on 30.04.2008. Thereafter, petitioner No.2, *vide* his order, dated 14.05.2009, imposed a penalty of 10% cut in pension of respondent No.1 and also directed him to remit a sum of Rs.4,46,488/-, by a separate order, dated 23.05.2009. When the matter was placed before petitioner No.1, it has issued a memo/show cause notice, dated 25.02.2010, wherein it has opined that petitioner No.1 alone is competent to impose any penalty on respondent No.1. Accordingly, it has directed respondent No.1 to show cause as to why the penalty of 10% cut in pension should not be imposed permanently against him as per the provisions of the Andhra Pradesh Revised Pension Rules, 1980, besides recovery of a sum of Rs.4,46,488/-. In reply to the said show cause notice, respondent No.1 has submitted his explanation on 23.03.2010, wherein while denying the allegations made against him, respondent No.1 has requested petitioner No.1 to drop further action by ordering release of pension. For two years thereafter, nothing has

transpired. Therefore, respondent No.1 was constrained to file the aforementioned O.A. before the Tribunal. One of the main grounds on which he has questioned the show cause notice, dated 25.02.2010, was the inordinate delay in concluding the disciplinary proceedings. The Tribunal felt convinced with the plea of respondent No.1 that the long and unexplained delay on the part of the petitioners in completing the disciplinary proceedings and taking an appropriate decision was a sufficient ground for quashing the whole disciplinary proceedings. Accordingly, the Tribunal relying upon the judgments of the Supreme Court in **State of A.P. vs. N.Radha Krishna**^[1], **M.V.Bijlani vs. Union of India and others**^[2] and **P.V.Mahadevan vs. M.D., Tamilnadu Housing Board**^[3], quashed the disciplinary proceedings against respondent No.1, only on the ground of inordinate and unexplained delay in concluding the disciplinary proceedings, in respect of the alleged misconduct, which related to the years 2002-03.

3. At the hearing, Mr.S.Sharath Kumar, learned Special Government Pleader (TS) appearing for the petitioners, urged that the Tribunal failed to take into consideration the delinquency of respondent No.1 and applied the judgments of the Supreme Court, the ratio in which does not strictly apply to the facts of the present case. Mr.G.Seena Kumar, learned counsel for respondent No.1, sought to support the order of the Tribunal.

4. On a careful consideration of the respective submissions of the learned counsel for the parties, we are of the opinion that in the absence of any explanation whatsoever offered by the petitioners for their failure to conclude disciplinary proceedings for a decade, the ratio laid down by the Supreme Court in the abovementioned cases was rightly applied by the Tribunal in quashing the disciplinary proceedings.

5. At the hearing, the learned Special Government Pleader (TS) appearing for the petitioners has not disputed that the enquiry officer has not found respondent No.1 guilty of any misfeasance and malfeasance and that he was mainly found guilty of negligence and dereliction of duty, causing loss to the public exchequer. The fact that respondent No.1 has retired from

service as far back as 30.04.2008 and suffered mental agony of pendency of disciplinary proceedings for ten long years till 2015 persuades us not to interfere with the order of the Tribunal.

6. In the above facts and circumstances of the case, we do not find any reason to interfere with the order of the Tribunal and accordingly, the Writ Petition is dismissed.

7. The learned Special Government Pleader (TS) appearing for the petitioners has submitted that as his clients were pursuing this writ petition, they could not implement the order of the Tribunal within the stipulated time. He has, therefore, requested for time for implementation. After hearing the learned counsel for respondent No.1 on this aspect, we feel that it is reasonable to grant three months time from today to the petitioners to implement the order of the Tribunal. Ordered accordingly.

8. As a sequel to dismissal of the writ petition, W.P.M.P.No.34542 of 2015 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

M.SEETHARAMA MURTI, J

04th March, 2016

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[\[1\]](#) (1998)4 SCC 154

[\[2\]](#) (2006)5 SCC 88

[\[3\]](#) (2005)6 SCC 636