

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 39278 of 2016

ORDER: (Per VRS,J)

Aggrieved by an order of penalty of reduction from the post of Forest Section Officer to the post of Junior Assistant, the 1st respondent herein filed an application in O.A.No.5801 of 2014 on the file of the Andhra Pradesh Administrative Tribunal. Finding the said penalty to be contrary to Rule 29 (1) (a) of the Fundamental Rules, which requires the disciplinary authority to specify the period of reduction in rank, the Tribunal allowed the application, forcing the Government to come up with the above writ petition.

2. Heard the learned Government Pleader for Services (AP). Mr. G. Venkat Krishnaiah, learned counsel, takes notice for the 1st respondent.

3. The operative portion of the order of penalty, dated 18.09.2014, imposed upon the 1st respondent, reads as follows:

“Sri K. Ramanjaneyulu, Forest Section Officer, Nandyal (W.L.) Division is permanently reduced from the present cadre of Forest Section Officer under the A.P. Forest Subordinate Service to the cadre of Junior Assistant (to which he was originally appointed) of A.P. Ministerial

Service and allotted to his parent Division i.e., Nandyal (WL) Division.”

4. But, there cannot be a penalty of permanent reduction to a particular post. Rule 9 of the Andhra Pradesh Civil Services (CCA) Rules lists out minor and major penalties that could be imposed upon a Government servant. Sub-clause (b) of Clause (vii) of Rule 9, which deals with the penalty of reduction to a lower time scale of pay or reduction to a lower grade or service, reads as follows:

“Reduction to lower time scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government servant to the time scale of pay, grade, post or service from which he was reduced, with or without further directions, regarding conditions of restoration to the grade or post or service from which the Government servant was reduced and his seniority and pay on such restoration to that grade, post or service.”

5. A careful reading of the above Rule would show that any order of penalty reducing a person to a lower time scale of pay or grade or post or service, should indicate what happens when the Government servant is restored to the post, from which he was reduced by way of penalty. In other words, the restoration is inbuilt into Rule 9 (vii) (b) of A.P. Civil Services (CCA) Rules.

6. The above position is what is clarified in Fundamental Rule 29 (1) (a). Fundamental Rule 29 (1) (a) reads as follows:

“(1) (a) Every order of reduction passed under Rule 29(1) should indicate:

(i) The date from which it will take effect and the period (in terms of years and months) for which the penalty shall be operative. It should be noted that the reduction is not permissible either for an unspecified period or as a permanent measure.”

7. The Andhra Pradesh has its own set of Fundamental Rules, sub-rule (2) of Fundamental Rule 29 of which, reads as follows:

“ If a Government servant is reduced, as a measure of penalty, to lower service, grade or post, or to a lower time scale, the authority ordering the reduction may or may not specify the period for which the reduction shall be effective, but where the period is specified, that authority shall also state whether, on restoration, the period of reduction shall operate to postpone, future increments, and if so, to what extent.”

8. From the above Rule, it is clear that though it is permissible for the Government not to specify the period, for which the reduction to a lower post shall be effective, the same cannot be permanent, as every Government servant is entitled to move on, after spending the years of penalty. Therefore, the Tribunal was right in setting aside the impugned order of penalty. It will be open to the respondents to pass a fresh order, after giving an opportunity to the 1st respondent.

9. With the above observation, the Writ Petition is dismissed.

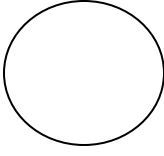
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

16th November, 2016
cbs





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