

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

and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.24795 of 2017

Date: 31.07.2017

Between:

Kandukuri Butchaiah

... Petitioner

and

The Collector and District Magistrate
Krishna District at Machilipatnam and 3 others

...Respondents

Counsel for the Petitioner: Mr.A.Sreedhar

Counsel for respondent Nos.1 to 4: GP for Services I (AP)

The Court made the following:



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

The petitioner, who is a Village Revenue Officer (under suspension), filed this Writ Petition feeling aggrieved by his continued suspension from 05-01-2013. He filed OA.No.1415 of 2014 before the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal'), seeking setting aside of the said order of suspension on the ground that the respondents have neither reviewed the said order despite lapse of more than four years nor completed the disciplinary proceedings. The petitioner has also pleaded that the Mandal Revenue Inspector, who was suspended along with him, was reinstated into service as per the interim order of the Tribunal. However, the Tribunal declined the relief to the petitioner while observing that it is not a fit case for directing reinstatement of the petitioner as he was the custodian of 13 new empty pattadar pass books, which were allegedly issued by him without obtaining orders from the Tahsildar, Jaggaiahpet.

Under G.O.Ms.No.86 General Administration (Ser.C) Department, dated 08-03-1994, the State Government has issued guidelines for reviewing the suspension orders against Government Servants. Sub-Clauses (i) to (iii) of Clause 3 thereof, which are relevant for the present purpose, read as under:

- (i) The order of suspension against a Government Servant shall be reviewed at the end of every six months;
- (ii) The appropriate reviewing authority should take a decision regarding continuance or otherwise of the employee concerned under suspension, with reference to the nature of charges, where delay in finalisation, of enquiry proceedings cannot be attributed to the employees or when there is no interference from the employee in facilitating the enquiry.
- (iii) An outer limit be provided as two years from the date of suspension, failing which the Public Servant may have to be reinstated without prejudice to the proceedings being pursued. However, in exceptional cases, considering the gravity of the charges, one could be continued under suspension even beyond a period of two years, especially in cases where there is deliberate delay caused due to noncooperation of the employee concerned.

The learned Government Pleader for Services (AP) fairly conceded that the aforementioned GO is in force even at present and that the Government and all its Departments are bound to follow the instructions contained therein.

It is evident from the above extracted instructions that the order of suspension against the Government Servant shall be reviewed after every six months; that at any rate, an outer limit of two years from the date of suspension has to be adhered to; that on the expiry of the said period, the public servant may have to be reinstated; and that, however, in exceptional cases, considering the

gravity of charges and especially, in cases where there is deliberate delay caused due to the non-co-operation of the employee concerned, one could be continued under suspension even beyond a period of two years,.

In the instant case, it is submitted by the learned Counsel for the petitioner, and the same is not disputed, that even a charge memo has not been issued to the petitioner so far. The learned Government Pleader has also not disputed that during the last 4½ years, the order of suspension of the petitioner has not been reviewed as mandated by Sub Clause (i) of Clause 3 of G.O.Ms.No.86.

In the above-mentioned facts of the case, we are of the opinion that the continued suspension of the petitioner militates against the spirit of G.O.Ms.No.86, dated 08-03-1994.

Hence, the impugned order of the Tribunal, as well as the order of suspension, dated 05.01.2013, in Rc.No.A3/4421/2012 (VRO-2), are set aside and respondent No.1- Collector is directed to forthwith reinstate the petitioner into service without prejudice to his right to continue the disciplinary proceedings against the latter.

The Writ Petition is, accordingly, allowed.

As a sequel, WPMP.No.30719 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 31st July, 2017
lur

