

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No. 5101 OF 2014

ORDER: (*Per VRS,J*)

Aggrieved by an order passed by the Andhra Pradesh Administrative Tribunal (for short 'the Tribunal') directing the department to treat the period of suspension undergone by the respondent from 05.08.2008 to 28.08.2009 as "on duty", for all purposes except the purposes of full pay, the State has come up with the above writ petition.

2. Heard the learned Government Pleader for Services (Telangana) and Mr. Balagangadharaiah, learned counsel appearing for the respondent.

3. Pursuant to disciplinary proceedings initiated against the respondent, he was imposed with a penalty of withholding of one annual increment without cumulative effect, besides recovery of an amount of Rs.6,360/-, alleged to be the loss caused to the Government. The said order of penalty was set aside by the departmental appellate authority by order dated 28.05.2012.

4. While setting aside an order of penalty, the authority which passes the order should also pass an order in terms of Fundamental Rule 54-B, as to how to treat the period of suspension. But no such

order was passed forcing the respondent to file an application in O.A.No.2586 of 2013 on the file of the Tribunal.

5. By a final order dated 27.11.2013, the Tribunal allowed the original application partly directing the State to treat the period of suspension as on duty for the purposes of notional increments and the pensionary benefits, but denied the monetary benefit.

6. As a matter of fact, the respondent should have come up with a writ petition against the said order. This is due to the fact that once a person is exonerated from all the charges, he is entitled under F.R.54-B(3) to have the period of suspension treated as duty for all purposes. There is no question of treating the period of suspension as duty for some purposes and not for the purposes of full pay.

7. Be that as it may, the respondent has resigned himself to such an order. In such circumstances, we do not know how the Government is aggrieved.

8. Once an order of penalty is set aside by the appellate authority and that too the penalty imposed by the original authority was also a minor penalty, it follows as a natural corollary that the suspension was wholly unjustified. Therefore, to the extent that the Tribunal directed the period of suspension to be treated as on duty, the order was perfectly justified, though the denial of the wages for the period to the respondent could be unjustified.

9. However, since the respondent has not questioned the said order, the Government cannot be taken to be aggrieved by the said order.

10. Hence, the Writ Petition is dismissed. No order as to costs.

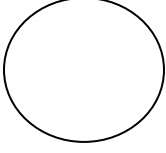
Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed.

V. RAMASUBRAMANIAN, J

28th November, 2017
anr

M.GANGA RAO J





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