

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No 85 of 2017

Date : 15.6.2017

Between :

Mirza Osman Baig S/o Mirza Zorawar Baig
R/o 18-13-8/31, Rahmath colony, Bandlaguda
Chandrayangutta, Hyderabad

Petitioner

And

The State of A P,
Rep by its Principal Secretary,
Home Department, Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

At the relevant point of time petitioner was working as Sub Inspector of Police. Disciplinary proceedings were initiated against him alleging that he behaved irresponsibly, exhibited gross negligence on duty and demanded illegal gratification of an amount of Rs.150/- from Mr B Raju to release Mr Natrajan accused in Crime No. 68 of 1992 registered under Section 325 IPC at Bowenpally Police Station, Secunderabad. The earlier disciplinary proceedings resulted in imposing the punishment of compulsory retirement by order of the Disciplinary Authority dated 27.6.2005. The appeal preferred by the petitioner was rejected. Petitioner challenged the order of punishment imposed in O A No. 7071 of 2005. The said O A was allowed by A.P. Administrative Tribunal by order dated 23.6.2009 setting aside the punishment on the ground that the punishment was imposed under the influence of the Vigilance Commission recommendations and the Government memo dated 24.1.2005 and there was no independent application of mind. However, the matter was remitted to the Disciplinary Authority to pass appropriate orders by taking into account the explanation of the petitioner. On remand, the Commissioner of Police passed orders dated 29.8.2009 imposing punishment of reduction in time scale of pay by one stage for one year without effect. Said punishment is under challenge in this writ petition.

2. Heard learned counsel for petitioner and learned Government Pleader for Services (TG).

3. The first and foremost contention of the learned counsel for petitioner is that the punishment of reduction in time scale was imposed after petitioner was retired from service, therefore punishment itself is not valid in law and punishment is liable to be set aside on that ground alone.

4. Though, learned counsel for petitioner raised several other contentions, the Court is not recording any findings on the said contentions since Court is satisfied that the punishment imposed is liable to be set aside on the sole ground that it was imposed on petitioner after retirement.

5. It is not in dispute that petitioner retired from service on attaining the age of superannuation w.e.f. 30.6.2006. The Commissioner of Police records the said fact while passing the order. The punishment is imposed by the Commissioner of Police from a retrospective date operative from 27.6.2005 to 30.6.2006, after the petitioner retired from service.

6. Appropriate punishment as prescribed in A.P. Civil Services (Classification Control and Appeal) Rules, 1991 can be imposed against an employee who is in service. After retirement of an employee, power is available to the Government to impose appropriate punishment only in accordance with A.P. Revised Pension Rules, 1980. As Government is having obligation to pay pension to the retired employee during his life time and family pension to the wife/minor dependants after his demise, Government reserved power to take penal action against pensioner in the event of any delinquency committed by the ex-employee, while he was in service or/and after his retirement. In the case on hand, disciplinary proceedings were initiated while the employee was in service. Earlier order of punishment of compulsory retirement was set aside by the Tribunal, with liberty to the Competent Authority to impose appropriate punishment. As per the orders of the Tribunal, the disciplinary proceedings are deemed to be pending by the time the employee retired from the service on attaining the age of superannuation. In such case, Rule 9 of the A P Revised Pension Rules apply and in terms of Rule 9 only an order of withholding of pension can be passed and no other punishment can be imposed. Further more, after the retirement punishment under Revised Pension Rules can be imposed only by the Government and not by any other authority. In the instant case, order of punishment is made by the Commissioner of Police. Thus, the punishment

imposed is not valid in law and is liable to be set aside on that sole ground. Thus, impugned order is not sustainable and accordingly the same is set aside. As a consequence, petitioner is entitled to all the benefits treating him as retired from service without any delinquency sticking to him.

7. Accordingly, the writ petition is allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 15.6.2017
TVK

P NAVEEN RAO,J



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