

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI**

WRIT PETITION No.25803 of 2015

**ORDER
(Per Justice Sanjay Kumar)**

The State of Andhra Pradesh and its Police authorities filed this writ petition aggrieved by the order dated 20.08.2014 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.4970 of 2014. By the said order, the Tribunal followed its earlier decision in O.A.No.1493 of 2013 and set aside the proceedings dated 18.09.2008, whereby the applicant was removed from the rolls of Home Guards, and directed his reinstatement in service forthwith.

By order dated 17.08.2015, this Court granted interim suspension of the order under challenge.

Heard the learned Government Pleader for Services (Andhra Pradesh), and Sri T.V.V.Koteswara Rao, learned counsel for the first respondent/applicant.

The delay on the part of the first respondent herein in approaching the Tribunal is explained by Sri T.V.V.Koteswara Rao, learned counsel. After his removal from the rolls of Home Guards in the year 2008, the first respondent faced criminal proceedings in C.C.No.500 of 2008 on the file of the learned Additional Junior Civil Judge, Mangalagiri. It was only by judgment dated 24.06.2014 that the first respondent was acquitted of the criminal charge which was also the basis for his removal from service as a Home Guard. Upon such acquittal, he filed the subject O.A. before the Tribunal. The delay therefore stands satisfactorily explained.

It is fairly conceded by the learned Government Pleader that the basis for removal of the first respondent from service was the charge which was the subject matter of the criminal proceedings. That being so, acquittal of the first respondent by the competent criminal Court tilts the balance in his favour. The first respondent would however not be entitled to the benefit of any past service or seek the relief of reinstatement as the character and status of a Home Guard is not on par with a regular employee. That apart, his right to seek such employment only arose upon his acquittal in the criminal proceedings in the year 2014.

The writ petition is accordingly disposed of permitting the first respondent to make an application afresh for appointment as a Home Guard in the light of his acquittal in C.C.No.500 of 2008 on the file of the learned Additional Junior Civil Judge, Mangalagiri. In the event the first respondent does so, the authorities shall consider the same on its own merits and in accordance with the relevant rules. The order passed by the Tribunal is set aside to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

N. BALAYOGI, J

19TH APRIL, 2017
PGS