

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

WRIT PETITION No.14944 of 2014

ORDER: (Per Justice Sanjay Kumar)

The Government of Andhra Pradesh and its Director of Town and Country Planning filed this writ petition aggrieved by the order dated 03.09.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1360 of 2013. The said O.A. was filed by the first respondent herein assailing the proceedings dated 07.02.2013 of the Director of Town and Country Planning, Government of Andhra Pradesh, whereby he was imposed with the punishment of withholding of three increments of pay with cumulative effect. It appears that after the institution of the O.A., the appeal filed by the first respondent was allowed in part by the Government of Andhra Pradesh, vide G.O.Rt.No.1280, Municipal Administration & Urban Development (VIG-II) Department, dated 17.08.2013, reducing the punishment to stoppage of two annual grade increments without cumulative effect. By the order under challenge, the Tribunal set aside the punishment imposed upon the first respondent in its entirety. Hence, this writ petition.

By order dated 03.06.2014, this Court granted interim suspension of the order passed by the Tribunal.

W.V.M.P.No.5297 of 2016 was filed by the first respondent to vacate the said order.

Sri S.V.R. Subrahmanyam, learned counsel for the first respondent, would state that the matter is squarely covered by the decision rendered by this Court in W.P.No.15701 of 2014. A copy of the order dated 27.02.2017 passed in the said writ petition is placed before us.

It appears that apart from the first respondent, two other Town Planning Supervisors were also involved in the alleged misconduct, namely N.Balasubramanyam and Penuganti Naidu. They were also visited with similar punishments which were reduced in appeal. Significantly, the order passed by the Tribunal in the case of N.Balasubramanyam setting aside the punishment imposed upon him was duly accepted by the Government and implemented without protest. However, in the case of Penuganti Naidu, the order passed by the Tribunal was assailed in W.P.No.15701 of 2014.

Taking note of the fact that the Government had chosen to adopt different standards in the cases of two employees involved in the same irregularity and suffered similar punishment, this Court observed that the pick and choose policy adopted by the State while dealing with identically situated employees requires to be condemned. This Court further observed that when the State decided to implement the order of the Tribunal passed in the case of N.Balasubramanyam, there was no reason as to why it should be aggrieved by an identical order passed by the Tribunal in the case of a similarly situated Town Planning Supervisor, Penuganti Naidu. W.P.No.15701 of 2014 was accordingly dismissed holding that there were no *bonafides* in the challenge laid by the State and its Director of Town and Country Planning.

Learned Government Pleader for Services (Andhra Pradesh) does not dispute the fact that the first respondent in this case stands identically situated to N.Balasubramanyam and Penuganti Naidu. Though she would state that the standards applicable would vary as per the designation of the officer in the hierarchy, we find that the all the three officers, the first respondent herein, N.Balasubramanyam and Penuganti Naidu, were Town

Planning Supervisors. That being so, there is no reason as to why there should be any discrimination while dealing with them. The matter is therefore squarely covered by the decision rendered by this Court in W.P.No.15701 of 2014.

The writ petition is accordingly dismissed.

Interim order dated 03.06.2014 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

22nd March, 2017.

Note:-

Issue CC in two days.

B/o

IBL

N. BALAYOGI, J

