

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

WRIT PETITION No.19246 of 2009

ORDER: (per SK,J)

The Principal Secretary to the Government, Municipal Administration, State of Andhra Pradesh, and the Regional Director-cum-Appellate Commissioner of Municipal Administration, Guntur, filed this writ petition aggrieved by the order dated 01.04.2009 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.6083 of 2006. By the said order, the Tribunal set aside the Charge Memo dated 05.08.2006 and directed the authorities to grant consequential benefits, including regular pension, to the respondent herein, the applicant in the O.A., duly treating the period of absence on account of suspension as well as under the earlier order of dismissal as 'on duty'.

By order dated 11.09.2009, this Court granted interim suspension of the order under challenge. W.V.M.P.No.2614 of 2011 was filed by the respondent to vacate the said order.

Perusal of the order passed by the Tribunal reflects that the respondent was a Junior Assistant in Bapatla Municipality, Guntur. A criminal case was registered against him under Section 420 IPC and he was placed under suspension. The respondent suffered conviction in the said criminal case which was confirmed in an appeal on 23.02.2001. Thereupon, the authorities dismissed him from service on 29.01.2002. While so, the conviction of the respondent in the criminal case was set aside by this Court vide order dated 13.06.2003 passed in Criminal Revision Petition No.224 of 2001. Consequent on his acquittal, the respondent was reinstated in service under proceedings dated 15.12.2004

of the Regional Director-cum-Appellate Commissioner, Guntur. Thereafter, an Enquiry Officer was appointed by the authorities under proceedings dated 28.12.2004 to conduct an enquiry into the same charge which was the subject matter of the criminal case. No Charge Memo was however issued to him before the appointment of the Enquiry Officer. It was only on 05.08.2006 that the Charge Memo came to be issued which was subjected to challenge before the Tribunal. Taking note of the aforesaid facts and considering the law laid down by the Supreme Court in P.V.Mahadevan v. M.D., Tamil Nadu Housing Board¹, the Tribunal opined that the authorities were now proposing to hold an enquiry into a charge which was more than 18 years old and accordingly set aside the Charge Memo and granted relief to the respondent.

Learned Government Pleader fairly concedes that despite the interim suspension granted by this Court, the authorities did not choose to proceed further in the matter.

It is also not in dispute that the respondent is afflicted with paralysis and that he retired from service long ago. He is now made to meet his expenses from the provisional pension given to him. It is not in dispute that it was only after the acquittal of the respondent by this Court that the authorities chose to initiate disciplinary proceedings. Mere pendency of the criminal proceedings did not bar the authorities from simultaneously initiating the departmental enquiry. Having chosen not to do so, the authorities leisurely chose to initiate disciplinary proceedings only in the year 2004, after the respondent was acquitted in the criminal case. Even thereafter, the Charge Memo came to be issued nearly two years later. All this is in relation to an incident which occurred in the year

¹ 2005 (5) SUPREME 611

1993. The delay and laches on the part of the authorities are therefore writ large on the face of the record. That being so, we find no ground to interfere with the cogent and well reasoned order passed by the Tribunal.

The writ petition is devoid of merit and is accordingly dismissed.

Interim order dated 11.09.2009 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

Date:30.03.2017

GJ



JUSTICE N.BALAYOGI