

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

WRIT PETITION No.38603 of 2015

ORDER: (per SK,J)

The petitioner is the applicant in O.A.SR.No.8456 of 2015 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, which was dismissed vide order dated 26.08.2015 upholding the objection raised by the Registry of the Tribunal that the O.A. was not maintainable. The prayer of the petitioner in the said O.A. was to implement the earlier order dated 31.07.2012 passed by the Tribunal in O.A.No.11911 of 2009 and to release the arrears of Full Time Scale Pay and increments attached to the post of Sweeper from 03.11.2008 to 30.06.2015 by treating the period of suspension undergone by the petitioner from 27.11.2003 to 25.10.2008 as on duty for all purposes with all consequential benefits. The Tribunal refused to entertain the O.A. accepting the objection raised by the Registry as to its maintainability.

It is no doubt true that the petitioner ought to have sought implementation of the order passed in O.A.No.11911 of 2009 by instituting contempt proceedings before the Tribunal within time. However, failure to do so would only bar contempt proceedings being initiated thereafter but would not have the effect of rendering the decision of the Tribunal in the earlier O.A. invalid. Though the Tribunal may not have the liberty to issue a writ for implementation of its earlier order, such a bar would not apply to this Court. A writ of *scire facias* can be issued by this Court for implementation of an earlier order.

Learned Assistant Government Pleader for Services (Telangana) appearing for the respondent authorities does not dispute the fact that the

order passed by the Tribunal as long back as on 31.07.2012 in O.A.No.11911 of 2009 has attained finality as the authorities did not choose to lay a challenge to the same. By the said order, the Tribunal set aside the proceedings dated 10.09.2009 whereby the petitioner's request to treat the period of suspension undergone by her as on duty was rejected and a positive direction was issued to the authorities to treat the said period of suspension from 27.11.2003 to 25.10.2008 as on duty for all purposes, including pay and allowances.

This being the factual scenario, it is not open to the respondent authorities to turn a blind eye to the earlier order passed by the Tribunal which has become final and refuse to implement the positive direction issued therein by the Tribunal.

The writ petition is accordingly allowed. There shall be a direction to the respondent authorities to give effect to the order dated 31.07.2012 passed by the Tribunal in O.A.No.11911 of 2009 and release all consequential benefits, including retirement benefits, to the petitioner in terms thereof. This exercise shall be completely expeditiously and in any event, not later than eight (8) weeks from the date of receipt of a copy of this order.

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

JUSTICE SANJAY KUMAR

JUSTICE N.BALAYOGI

Date:20.02.2017

GJ