

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
WRIT PETITON No.29081 OF 2017

ORDER:

This writ petition is filed challenging the action of the 3rd respondent in not reinstating the petitioner into service on expiry of six months period, as there is no extension time of suspension by the 2nd respondent as required under Rule-6(1) of Office Holders and Servants Punishment Rules, 1987 (Rules) as illegal and arbitrary.

Learned counsel for the petitioner says that the similar issue was considered by this Court in the judgment of **Smt.Ch.Lakshmi v. Durga Malleshwara Swamy Devasthanam, Vijayawada**¹. When Sri A.Srikanth Reddy, learned standing Counsel for Endowments was asked to get instructions whether any extension was ordered as per Rule-6(1) of the Rules, on instructions, learned Standing Counsel says that as on today, there was no extension of suspension passed. Rule 6(1) of the Office Holders and Servants Punishment Rules, 1987 read as follows:

“An office holder or servant attached to a charitable or religious institution or endowment may be ordered to be under suspension from office or service by the trustee, the Executive Officer, the Assistant Commissioner, the Deputy Commissioner or the Regional Joint Commissioner or the Additional Commissioner or the Commissioner as the case may

¹ 2002(4) ALT 553 (D.B.)

be, pending investigation or enquiry into grave charges where such suspension is necessary in public interest.

Provided that where the investigation has not been completed and the action proposed to be taken in regard to him has not been completed within a period of six months from the date of suspension, the fact shall be reported to the Government, the Commissioner, Regional Joint Commissioner, Deputy Commissioner or Assistant Commissioner, as the case may be, for orders. The period of suspension shall not, however, exceed six months without the previous orders of the Government in case of suspension ordered by the Commissioner or the Additional Commissioner and of the Commissioner in other cases.”

While interpreting the above rule, Division Bench of this Court in the judgment cited *supra* held as under:

“ 7. The first proviso to Rule 6(1) of the Rules provides that where the investigation has not been completed and the action proposed to be taken in regard to an employee has not been completed within a period of six months from the date of suspension the fact shall be reported to the Government, the Commissioner, the Regional Joint Commissioner, Deputy Commissioner or the Assistant Commissioner, as the case may be, for orders and that the period of suspension shall not, however, exceed six months without the previous orders of the Government in case the suspension is ordered by the Commissioner or Additional Commissioner and of the Commissioner in other cases. In the instant case, the appellant was suspended on 22-1-2001 in public interest. Six months' period expired by 22-7-2001. Learned Counsel for the respondents is not in a position to apprise this Court as to whether the department has

obtained previous orders from the competent authority as mentioned in Rule 6(1) of the Rules and got the suspension extended beyond the period of six months. Learned Counsel for the respondents, however, argued that since this Court granted status quo order on 5-10-2001, the department could not do anything in compliance with the proviso to Rule 6 (1) of the Rules. We are unable to countenance the said submission. The writ petition was filed by the appellant only on 5-10-2001 i.e., after expiry of six months as provided under Rule 6 of the Rules. Status quo order was passed by this Court on 5-10-2001 and the same was extended for a period of two weeks on 19-10-2001 and thereafter the same was not extended. In view of the same, we are of the opinion that there is no bar for the respondents to proceed with the enquiry into the charges levelled against the appellant or to obtain orders from the competent authority extending the period of suspension. The department, in our view, has miserably failed to obtain orders within the time stipulated in Rule 6 of the Rules. Therefore, in our opinion, the temple employee cannot be kept under suspension indefinitely for ever. We, therefore, have no hesitation in revoking the order of suspension and restore the appellant to duty with immediate effect.”

Since disciplinary proceedings are pending and there is no extension of suspension period beyond six months, the petitioner is entitled to be reinstated. It is also not the case of respondents that extension of suspension period was sought as envisaged in rule 6(1) of the Rules.

In view of the same, there shall be a direction to reinstate the petitioner into service. However, this order will

not preclude the authorities from proceeding with disciplinary proceedings.

Accordingly, the writ petition is allowed to the extent indicated above. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

05-09-2017
Nvl



