

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI

WRIT PETITION No. 33998 OF 2017

DATED 12TH OCTOBER, 2017

Between:

T.Bhaskar

... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue Department, Secretariat,
Velagapudi, Guntur,
Guntur District, and others

... Respondents

Counsel for the petitioner : Sri K.Venkata Subbaiah

Counsel for the respondents : G.P. for Services (A.P.)

THE COURT MADE THE FOLLOWING

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Writ Petition is filed for *certiorari* to quash order dated 15-09-2017 in O.A.No. 2650 of 2017 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short, 'the Tribunal').

2. We have heard Smt. G.Malathi, learned counsel for the petitioner, and perused the record.

3. The petitioner, who was a Village Revenue Officer, was subjected to departmental proceedings, wherein a charge was framed to the effect that he allowed 24 persons to occupy Government lands in Kurrakalva Village and raise illegal constructions during his tenure and thereby he failed to discharge his legitimate duties and showed gross negligence towards his basic responsibilities as Village Revenue Officer to protect the Government lands. The petitioner submitted his reply statement to the charge memo. The disciplinary authority appointed an inquiry officer who submitted his inquiry report to respondent No. 2. After considering the explanation submitted by the petitioner to the inquiry report, respondent No. 2 issued proceedings *vide* Roc.A8/4324/2014 dated 25-11-2015 dismissing the petitioner from service. The petitioner, having kept quiet for

sometime, filed O.A.No. 2650 of 2017 before the Tribunal with an application for condonation of delay. Though the delay was condoned by order dated 18-08-2017, the Tribunal has however dismissed the O.A. on the ground of availability of alternative remedy.

4. Learned counsel for the petitioner though has not disputed the fact that the order impugned before the Tribunal was amenable to a statutory appeal, she has however stated that as the inquiry was vitiated by procedural illegality, the petitioner has bypassed the remedy of appeal. We do not find force in this submission of learned counsel for the petitioner. Admittedly, charge memo was issued, an inquiry officer was appointed and inquiry was conducted. Thus, this is not a case of no inquiry. While it is trite that an order passed in violation of principles of natural justice is *non est* in law and consequently in such a case, alternative remedy is not a bar, in the present case, except stating that fair procedure was not followed, the petitioner has not substantiated this vague plea as to in what respect the inquiry officer has not followed the procedure. Even assuming that proper procedure was not followed, that by itself would not render the order passed by the disciplinary authority *non est*.

Undoubtedly procedural illegality is a ground for setting aside an order. But the same does not offer justification for the aggrieved party to bypass the appellate remedy. If the petitioner is able to satisfy the appellate authority that the order passed by the disciplinary authority is not based on proper inquiry, it would be well within the power of the latter to interfere with such order and grant relief to the petitioner. When the statute has provided a remedy, which undoubtedly is efficacious, the aggrieved party cannot be permitted to bypass such remedy on jejune grounds. The Tribunal has therefore rightly declined to entertain the O.A. for adjudication on merits. Hence, we do not find any reason to interfere with the impugned order of the Tribunal.

5. For the aforementioned reasons, the Writ Petition is dismissed, however, with liberty to the petitioner to avail the remedy of appeal. It is made clear that any observations made by the Tribunal in its order on merits should not prejudice the interests of the petitioner in the appeal that may be filed by him.

6. As a sequel to dismissal of the Writ Petition, W.P.M.P.No. 42282 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

K.VIJAYA LAKSHMI, J.

Date: 12-10-2017.

JSK

