

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE DR JUSTICE SHAMEEM AKTHER

W.P. No. 5159 of 2005

O R D E R:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 28.02.2005 in O.A.No. 5968 of 2003 passed by the Tribunal, whereby the O.A. filed by the petitioner, was dismissed.

The relief sought for by the petitioner in O.A.No. 5968 of 2003 is to set aside the Proceedings Rc.No.J2/ 3024/ 95-10, dated 10.05.2002 and Proc.Rc.No.J2/ 3024/ 95, dated 23.06.2003 issued by the 2nd respondent.

The petitioner, while working as Assistant Social Welfare Officer, Narsampet, Warangal District, was suspended from service on 16.07.1994 and charges were framed on 29.12.1994 pertaining to the period 1991-1994. Subsequently, enquiry was held and report thereof was submitted on 30.12.1995. Based on the enquiry report, a Show Cause Notice was issued on 23.03.1996 for which the petitioner submitted his explanation on 09.04.1996 and the petitioner was punished with stoppage of three annual grade increments with cumulative effect. However, the 2nd respondent - Commissioner of Social Welfare reopened the enquiry through Proc. Dated 20.11.1997, but the matter was kept in cold storage till 2002. Again, a Charge Memo was issued to the

petitioner on 10.05.2002 for the period 1991-1994, for which, the petitioner submitted his explanation on 14.08.2002 and 04.11.2002 and then the respondents appointed Enquiry Officer through Proc. Dated 23.06.2003 to enquire into the very same charges for which Charge Memo was already issued. Enquiry was conducted and punishment of stoppage of three annual grade increments was imposed on the petitioner and subsequently, the period of punishment was also completed. Hence, the respondents are estopped from conducting the enquiry into the very same set of charges for the reason that no employee can be made to suffer twice with punishment for the same charges.

Since the charges pertain to the period of 1991-1994, for which Charge Memo was issued in the year 2002, the enquiry proceedings were initiated in the year 2003. Hence, there is delay of 8 to 9 years in conducting disciplinary proceedings, and such action was deprecated by the Supreme Court of India in State of Andhra Pradesh v. N.Radhakrishna (AIR 1998 SC 1831). Therefore, the petitioner filed O.A.No. 5968 of 2003, before the Tribunal challenging the validity of Charge Memo, dated 10.05.2002 and the Enquiry proceedings dated 23.06.2003, however the petitioner's grievance is that the Tribunal dismissed the O.A.

The learned counsel for the petitioner submits that though the Tribunal, after considering the rival contentions, dismissed the O.A. filed by the petitioner, however similarly situated person before the Tribunal in O.A.No. 5920 of 2003 challenged the impugned order in W.P.No. 5152 of 2005, and the same was allowed vide order dated 23.06.2010, and consequently, the Charge Memo issued to the petitioner therein dated 10.05.2002 was quashed on the ground of delay in initiating the enquiry proceedings. Moreover, the petitioner therein retired from service long back and charges were dropped against him.

The learned counsel for the petitioner submits that the facts and circumstances in the instant case are identical to those of the petitioner in O.A.No. 5920 of 2003, and the petitioner herein also retired from service long back.

The learned Government Pleader for Social Welfare does not dispute the submissions of the learned counsel for the petitioners and the order dated 23.06.2010 passed by this Court in W.P.No. 5152 of 2005.

Keeping in view the facts and circumstances of the case and that the issue has already been decided by this Court in W.P.No. 5152 of 2005, we hereby set aside the order dated 28.02.2005 in O.A.No. 5968 of 2003 passed by the Tribunal.

Consequently, quash Charge Memo dated 10.05.2002 and Enquiry proceedings dated 23.06.2003.

Consequently, the respondents are directed to release all consequential terminal benefits which the petitioner is entitled to, within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

29.06.2017

bcj

SURESH KUMAR KAIT, J

DR. SHAMEEM AKTHER, J

