

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.27662 of 2017

Date:18.8.2017

Between:

D.Ganesh,
S/o Late D.Rajaiah

..... Petitioner

And:

The State of A.P., repled by its
Principal Secretary, Endowments
Department, Velagapudi, Guntur
District and three others.

.....Respondents

Counsel for the petitioner: Mr. N.Ramesh

Counsel for the respondent: GP for Services-I (AP)

The Court made the following:

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

Feeling aggrieved by dismissal of O.A.No.1802 of 2017 by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Act'), vide order, dated 06.7.2017, the unsuccessful applicant therein filed this Writ Petition.

The petitioner filed the afore-mentioned O.A. questioning order, dated 30.12.2016, of respondent No.4 removing him from service as Night Watchman. The Tribunal has declined to entertain the said O.A. in view of availability of alternative remedy to the petitioner and the bar contained in Section-20 of the Andhra Pradesh Administrative Tribunals Act, 1985 on maintainability of the Original Application before it without exhausting the alternative remedy. Having so held, the Tribunal, however, went further, discussed the merits of the case and rendered a finding that there are no procedural lapses in the departmental enquiry.

In our opinion, this exercise undertaken by the Tribunal was wholly unnecessary. When the Tribunal was not inclined to entertain the said O.A. on the ground of availability of alternative remedy, it is not justified in delving into the merits of the case, which would eventually prejudice the interests of the petitioner even if he avails the alternative remedy of appeal.

In this view of the matter, paragraph No.2 of the impugned order of the Tribunal is set aside. The Writ Petition is, accordingly, allowed in part. The petitioner is left free to file appeal before the competent authority. If such appeal is filed, the competent authority shall consider the same without being influenced by any of the findings rendered by the Tribunal in the said O.A. either on merits or on limitation.

As a sequel to disposal of the Writ Petition, WPMP.No.34360 of 2017 is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

18th August 2017

DR

