THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

and

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.28523 of 2009

ORDER: (Oral)

(Per Honourable Sri Justice Suresh Kumar Kait)

Vide the present petition the petitioner has challenged the order dated 6.11.2009 in O.A.No.2206 of 2006 passed by the learned Andhra Pradesh Administrative Tribunal, whereby the application filed by the petitioner under Section 19 of Administrative Tribunal Act, 1985, has been dismissed.

2. Brief facts of the case are that the petitioner retired as Assistant Treasury Officer on 30.11.2002, however, charge memo was issued on 18.3.2004 on the allegation that the petitioner, while functioning as Assistant Treasury Officer at the Office of District Treasury, Karimnagar, has admitted and passed the medical advance bill of Rs.75,000/- in respect of Sri Syed Ameena Ahmed, Senior Accountant, District Treasury, Karimnagar, even though the bills are not having the sanction orders of the Head of the Department i.e., the Director of Treasuries and Accounts, A.P., Hyderabad, as required in G.O.Ms.No.86, Finance Department, dated 1.6.1992, irregularly, thereby he paved way for fraudulent drawals causing financial loss to the Government.

3. The second charge against the petitioner was that while working as Assistant Treasury Officer the petitioner has admitted and passed the medical reimbursement bill of Sri Syed Ameen Ahmed, Senior Accountant for Rs.5,410/- for the treatment in an unregistered private hospital even though the District Treasury Officer is not competent to sanction the medical reimbursement claim based on the report of Superintendent of Headquarters Hospital, Karimnagar as per G.O.Ms.No.38, HM & FW (K1) Department, dated 23.1.1996 and G.O.Ms.No.373, HM & FW (K1) Department, dated 20.10.2000, irregularly, thereby he paved way for fraudulent drawals causing financial loss to the Government.

4. The third charge against the petitioner is that he admitted and passed the medical reimbursement claim of Sri G.Rangaswamy, Sub-Treasury Officer, District Treasury, Karimnagar, for Rs.17,662/- even though the District Treasury Officer, Karimnagar is not competent to sanction the medical reimbursement claim for the diseases not listed in G.O.Ms.No.445, HM & FW (E2) Department, dated 19.7.1991, irregularly, thereby he paved way for fraudulent drawals causing financial loss to the Government.

5. After conducting the enquiry and considering the explanation of the petitioner, he was punished with 30% cutting of pension.

6. Learned counsel appearing on behalf of the petitioner submits that the petitioner was the subordinate to the Treasury Officer who sanctioned the bill and thereafter sent for process through the

petitioner and accordingly the petitioner and other charged officer processed and reimbursed the bill in favour of the claimant. He submitted that the petitioner along with six others, including the Treasury Officer, faced departmental enquiry and the disciplinary authority imposed punishment of 30% cut in pension in case of the petitioner, where as in case of the Treasury Officer 2% cut of pension was imposed and *qua* the other charged officer 5% cut of pension was imposed.

7. Learned counsel for the petitioner further submits that vide G.O.Rt.No.2450, dated 7.7.2006 the respondent passed the order in case of other charged officer i.e., Sri Saleem Raza, Senior Accountant, District Treasury, Karimnagar, as under :

> "Government after careful examination of the contents of the Appeal and the records available i.e., Charge Memo., written statement of defence, enquiry report and the explanation of the individual, found that in respect of Charge-I, the claim is genuine and sanction was issued basing on the estimate of treatment issued by NIMS and the amount was adjusted in the shape of D.D. in favour of NIMS. There appears to be no ill-motive on the part of the C.O. In respect of Charge-3, the claim appears to be genuine as it has been scrutinized by the D.M.E. who permitted the drawal for Rs.17,662/- only for which the DTO has given sanction. In respect of Charge-II, there is a lapse by the Charged Officer even if the amount has been made good since the employee was given reimbursement for the treatment in unrecognized hospital and without sanction of competent authorities and without verifying that he had been given advance for the same purpose. However, there is no misappropriation or illegal gratification or moral turpitude involved. Moreover, he was not the sanctioning authority. The appropriate authorities to pass the bills were the A.T.O. and D.T.O. Hence it is decided to take a

> sympathetic view and modify the punishment imposed on him from stoppage of (2) two annual grade increments with cumulative effect to that of "stoppage of one increment without cumulative effect."

8. Further, vide G.O.Rt.No.2208, dated 15.6.2006 the respondent passed the order in case of other charged officer i.e., Smt.Ch.Sophia, Senior Accountant, District Treasury, Karimnagar, as under :

> "Government accordingly, hereby order that the penalty of stoppage of (2) two annual grade increments with cumulative effect imposed on Smt.Ch.Sophia, Senior Accountant, District Treasury, Karimnagar in the reference 1st cited be modified to that of "stoppage of one increment without cumulative effect."

9. More over, in case of the Treasury Officer viz., V.Babu Rao vide G.O.Rt.No.3012, dated 28.6.2010, the earlier punishment of withholding of 5% of the pension for one year was modified and reduced to 2% of pension for a period of one year.

10. Learned counsel appearing on behalf of the petitioner submits that the case of the petitioner is not graver than the Treasury Officer who actually passed the bill and thereafter sent for process and reimbursement. In another case also 5% cut of pension was proposed where as in the case of the petitioner 30% cut of pension is imposed.

11. Learned counsel appearing on behalf of respondents does not dispute submissions made by the learned counsel for the petitioner. In view of the of the submissions of the counsel for the petitioner and as the same are admitted by the counsel for respondents, we have no hesitation to say that the petitioner is also on par with other charged officer, therefore, the petitioner cannot be punished with 30% cut of

pension. Therefore, we hereby quash the order imposing 30% cut of pension and direct respondents to pass appropriate orders keeping in view the role of the petitioner and the punishment imposed on the similarly situated charged officers mentioned above within a period of four weeks from the date of receipt of a copy of the order.

12. The Writ Petition is accordingly disposed of. No order as to costs.

13. Miscellaneous petitions if any pending shall stand closed.

SURESH KUMAR KAIT, J

U. DURGA PRASAD RAO, J

Date: 13.07.2017

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