

THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SRI JUSTICE N. BALAYOGI

WRIT PETITION No.43184 of 2016

ORDER: (per SK, J)

Petitioner is the applicant in O.A.No.7494 of 2014 before the Andhra Pradesh Administrative Tribunal, Hyderabad, which was dismissed by order dated 02.08.2016.

The grievance of the petitioner before the Tribunal was with regard to how the period of suspension undergone by her was treated. According to her, the punishment of withholding of one annual grade increment with cumulative effect visited upon her was set aside in appeal by the Government and pursuant to the same, the Superintendent, Office of the Director of Insurance Medical Services, Andhra Pradesh, issued revised order dated 05.12.2011 recording that the punishment imposed upon her was set aside and that the suspension period was treated as on duty for all purposes. However, thereafter, the Superintendent, Office of the Director of Insurance Medical Services, Andhra Pradesh, issued memo dated 18.10.2013 referring to the Government Memo dated 27.08.2013 with regard to how the period of suspension undergone by the petitioner was to be treated and

asking the petitioner to submit a leave application so as to convert the suspension period as leave period. It is not in dispute that the Government, while allowing the petitioner's appeal and setting aside the punishment imposed upon her, directed that the suspension undergone by her should be regularized under Fundamental Rule 54-B(7). The Tribunal found that in terms of Fundamental Rule 54-B(7), the period of suspension undergone could not be treated as on duty and, at best, it could be treated as leave period as per the entitlement of the employee.

In that view of the matter, the Tribunal found no reason to interfere. Upon consideration of the facts, we see no irregularity in the approach of the Tribunal inasmuch as the rule position is clear that after the amendment of Fundamental Rule 54-B(7) in the year 2006, the period of suspension covered thereby cannot be treated as on duty. Under the proviso thereto, such period can however be treated as leave as per the entitlement of the employee. The order passed by the Tribunal therefore does not warrant interference on any ground.

The Writ Petition is accordingly dismissed. However, we make it clear that this order shall not preclude the petitioner from approaching the State of Telangana for appropriate relief in accordance with law, if so advised.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

18th JANUARY, 2017.

SANJAY KUMAR, J

N. BALAYOGI, J

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