

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 43186 of 2017

Order:

It is the case of the petitioner that he entered in service as Junior Assistant in the year 1967 and was promoted as Senior Assistant in the year 1981. He was further promoted as Office Superintendent and while he was working as Administrative Officer in the year 1997 he was promoted as Regional Transport Officer in the year 2006. He retired from service on attaining the age of superannuation on 30.06.2009. While he was working as Administrative Officer, a memo was issued on 23.02.2005 levelling a charge against him and challenging the same the petitioner approached the A.P. Administrative Tribunal and the said memo was suspended initially by the Tribunal and later on the same was set aside by an order dated 27.10.2009 passed in O.A.No.2002 of 2006. The said order has become final. The petitioner submitted a representation to the first respondent on 03.11.2010 enclosing the copy of order in O.A.No.2002 of 2006 dated 27.10.2009 to drop further action. Now, when a show cause notice dated 07.02.2012 was served on the petitioner on 11.12.2017 proposing to impose penalty of withholding 5% of pension besides recovery of loss caused, the present Writ Petition is filed on the ground that when the charge memo itself was set aside by the Tribunal no punishment can be imposed against him.

A perusal of the impugned proceedings shows that the Enquiry Officer submitted his report on 10.04.2006 and the order of the Tribunal was dated 27.10.2009. The enquiry report was also communicated to the petitioner on 13.09.2010. After receipt of the said enquiry report, the petitioner submitted a representation bringing it to the notice of the first

respondent with regard to the order passed by the Tribunal on 27.10.2009. In spite of the same, it appears that the Government wanted to impose a punishment. Whether the action of the first respondent to impose the punishment on the basis of a charge which was set aside by the Tribunal is tenable or not cannot be decided without the application of mind by the first respondent on the reply submitted by the petitioner.

In the circumstances, liberty is given to the petitioner to submit his reply to the first respondent pursuant to the charge memo dated 07.02.2012 communicated to him on 11.12.2017. This Court cannot interfere at this stage and it is for the first respondent to take a decision on the reply to be submitted by the petitioner. The petitioner is given fifteen (15) days time from today to submit his reply.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 19.12.2017

Note:
Issue CC in three days
(B/O)
Nsr