

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.P.NO.42374 of 2017

% Date: 14-12-2017

Between:

M. Syam Prasad, S/o. M. Gnanasundaram,
Retired Junior Assistant, O/o. Tahsildar,
Chatrai Mandal, Krishna District,
P/o. Plot No.304, Vishnu Priya Residence,
Pythupeta, Nandigama Post,
Krishna District.

.... Petitioner

And

1. The Collector & District Magistrate, Krishna District @
Machilipatnam – 521 001.
2. The District Revenue Officer, Krishna District @ Machilipatnam –
521 001.
3. The State of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue Department, A.P. Secretariat, Velagapudi, Amaravathi,
Guntur District – 522 020.

... Respondents

! Counsel for the Petitioner : Mr. K. Aravind Kumar on behalf
of Mrs. K. Swarna Seshu

^ Counsel for Respondents 1 to 3 : G.P for Revenue (AP)

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? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.42374 of 2017

ORDER: (Per VRS,J)

Challenging an order of the District Revenue Officer treating two spells of suspension and one spell of dismissal from service as extraordinary leave without pay and allowance, the petitioner went before the Tribunal, but the Tribunal refused the relief, forcing him to come up with the above writ petition.

2. Heard Mr. K. Arvind Kumar, learned counsel for the petitioner.

3. The petitioner was appointed on 21.06.1984. He was placed under suspension on 03.08.1991 and later reinstated into service on 03.09.1992. Again he was placed under suspension on 22.06.1993 and was reinstated on 03.10.1997.

4. Pursuant to disciplinary proceedings, he was dismissed from service on 19.01.2003. The order of dismissal was challenged by the petitioner before the Tribunal in O.A.No.3845 of 2003. The Tribunal allowed the application on 14.07.2009 remitting the matter back to the disciplinary authority. The disciplinary authority passed a fresh order on 09.11.2014, setting aside the penalty of removal from service, on the ground that he had reached superannuation on 30.06.2010 and that the period of seven years during which he was out of duty, can be treated as not on duty period without any further action.

5. The said order of the District Collector, dated 09.11.2014 treating the period, when the officer was not on duty, as a period of no

work no pay, became final. However, the petitioner seems to have made a revision to the District Revenue Officer for regularization of the period of suspension and the regularization of the period of dismissal from service. The periods that we have indicated in paragraph-3 above, were treated by the District Revenue Officer as a period of extraordinary leave without pay and allowances.

6. Challenging the same, the petitioner went before the Tribunal and the Tribunal rejected the relief on the ground that it was a case of misappropriation and that the Collector's order dated 09.11.2014 taking a lenient view, was on account of the petitioner remitting the amount of Rs.1,55,336 allegedly misappropriated by him.

7. The case of the petitioner is that he had been acquitted in the Criminal Case and that the departmental proceedings had also ended in his favour by the order of the Collector, dated 09.11.2014. But it must be pointed out that in the departmental enquiry he was found guilty and imposed with a penalty of dismissal by order dated 19.01.2013. The order of the Collector, dated 09.11.2014 was actually an order passed on sympathetic consideration. But the same records the fact that the petitioner remitted the amount misappropriated. Therefore, the question of granting any more concession to the petitioner does not arise. The acquittal in the criminal case cannot advance his cause, especially when in the departmental enquiry the charges were held proved once and after remand the Collector set aside the order of dismissal only on the ground of remittance of the misappropriated amount. Hence the writ petition is dismissed.

8. As a sequel, miscellaneous petitions pending in this writ petition, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J.

M. GANGA RAO, J.

14th December, 2017
Js.



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.42374 of 2017



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