

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO**

WRIT PETITION NO.3148 OF 2018

O R D E R

(Per Hon'ble Sri Justice Sanjay Kumar)

The petitioner, the applicant in O.A.No.7 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, is aggrieved by the order dated 27.10.2017 passed in M.A.No.726 of 2017 filed in the said O.A. and also the order dated 06.06.2017 whereby his O.A. was dismissed for default.

Perusal of the order dated 27.10.2017 passed by the Tribunal in M.A.No.726 of 2017 in O.A.No.7 of 2017 demonstrates that there was no representation for the petitioner or his learned counsel when the matter was taken up by the Tribunal on 05.06.2017. It was accordingly directed to be listed under the caption 'For Dismissal' on 06.06.2017. However, there was no representation, yet again, on 06.06.2017. On that ground, the O.A. was dismissed for default.

M.A.No.726 of 2017 was filed by the petitioner seeking restoration of the O.A. The Tribunal found that no cause was shown in the said M.A. as to why there was no representation when the matter was taken up by the Tribunal on 05.06.2017 and 06.06.2017. The Tribunal accordingly found that there was no sufficient cause for non-appearance on 06.06.2017 and accordingly dismissed the M.A. refusing to restore the O.A.

Perusal of the petition filed in M.A.No.726 of 2017 in O.A.No.7 of 2017 demonstrates that the petitioner did not even advert to the lack of representation on his behalf on 05.06.2017 and 06.06.2017. No reason or excuse was put forth for the failure on the part of his learned counsel to appear on either of the said dates.

That being so, this Court finds no error having been committed by the Tribunal in refusing to restore the O.A. However, the fact remains that the lapse in this regard would be attributable more to the learned counsel appearing for the petitioner and the petitioner cannot be penalised for the failure on the part of his counsel in filing a proper application. The cause sought to be raised by the petitioner in the said O.A. was, in effect, left unaddressed for the fault of the petitioner's counsel and the consequences would be visited on the petitioner. On that ground, we are of the opinion that the petitioner may be allowed an opportunity to seek redressal of his grievance in the subject O.A. though there is no reason made out, on merits, for interference with the impugned orders passed by the Tribunal.

The writ petition is accordingly allowed on this short ground setting aside the order dated 27.10.2017 passed in M.A.No.726 of 2017 and the order dated 06.06.2017 passed in O.A.No.7 of 2017. The O.A. shall stand restored to file.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

21st MARCH, 2018

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