

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

WRIT PETITION No.35606 OF 2013

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The Government of Andhra Pradesh and its officials in the Police Department filed this writ petition aggrieved by the order dated 22.01.2013 passed by the Andhra Pradesh Administrative Tribunal (*hereinafter*, 'the Tribunal'), Hyderabad, in O.A.No.6462 of 2012 to the limited extent that it directed the period of suspension undergone by the first respondent herein, the applicant in the O.A., to be treated as on duty.

By order dated 09.12.2013, this Court suspended the impugned order passed by the Tribunal to the extent it directed the period of suspension undergone by the first respondent-applicant from 23.03.2005 to 01.07.2010 to be treated as on duty. W.V.M.P.No.917 of 2015 was filed by the first respondent-applicant to vacate the aforestated order.

Perusal of the order under challenge reflects that the Tribunal gave the first respondent-applicant the benefit of his acquittal in the criminal proceedings and set aside the order of punishment postponing his increments for two years with effect on his future increments and pension and treating the period of suspension from 23.03.2005 to 01.07.2010 as not on duty. Consequential orders passed by the higher authorities confirming the said punishment and rejecting the mercy petition filed by the first respondent-applicant were also set aside. A further direction was given to the authorities to release the increments, if withheld, with all consequential benefits.

As the Tribunal was of the opinion that the punishment imposed upon the first respondent-applicant was unsustainable, it was at liberty to set at naught the same. However, in the event the said punishment was

set aside, Fundamental Rule 54-B postulates that it is for the authority concerned to decide as to how the period of suspension undergone by the employee during the disciplinary proceedings should be treated. As the earlier order of punishment dated 02.11.2010 addressed both aspects and the Tribunal set it aside in its entirety giving a clean chit to the first respondent-applicant, an opportunity ought to have been given to the said authority to decide in terms of Fundamental Rule 54-B as to how the period of suspension should be treated in the changed scenario. Without giving such an opportunity to the authority in terms of the said Rule, the Tribunal straightaway directed the suspension period to be treated as on duty. This relief was in excess of the jurisdiction of the Tribunal at this stage.

The order under challenge is accordingly set aside in so far as it pertains to the period of suspension and how it is to be treated.

The Superintendent of Police, Kurnool District, being the disciplinary authority, shall exercise power under Fundamental Rule 54-B and pass appropriate orders in relation to the period of suspension, *viz.*, from 23.03.2005 to 01.07.2010, undergone by the first respondent-applicant in the light of the order passed by the Tribunal in O.A.No.6462 of 2012. This exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above.

Interim order dated 09.12.2013 shall stand vacated. 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

Dt: 07.09.2018
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