

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

WRIT PETITION NO.3124 OF 2018

ORDER

*(Per Sri Justice Sanjay Kumar)*

The petitioner is the applicant in O.A.No.7720 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (*for brevity*, 'the Tribunal'). Her prayer therein was to declare the Charge Memo dated 06.06.2011 and the proceedings dated 04.02.2012 of the Commissioner, Prohibition & Excise, Government of Andhra Pradesh, as illegal. She sought a consequential direction to the authorities to forthwith consider her case for promotion as a Prohibition & Excise Superintendent without reference to the departmental proceedings initiated against her. By order dated 03.03.2016, the Tribunal allowed the O.A. directing the authorities to complete the departmental inquiry initiated against the petitioner-applicant through Charge Memo dated 06.06.2011 within a period of four months from the date of receipt of a copy of the order and in case they failed to do so, they were directed to consider the case of the petitioner-applicant for promotion to the next cadre without reference to the Charge Memo, subject to her seniority and eligibility.

As it was her case that the Disciplinary Authority never considered her written statement of defence submitted in response to the Charge Memo and straightaway appointed an Inquiry Officer, but the Tribunal did not take note of the same and directed completion of the inquiry within a time frame, the petitioner-applicant approached this Court.

By order dated 01.02.2018, this Court directed that no final decision *qua* the disciplinary proceedings against the petitioner-applicant should be taken pending further orders.

I.A.No.2 of 2018 was filed by the Commissioner, Prohibition & Excise, State of Telangana and the State of Telangana, the successors-in-interest of the respondents in the O.A., after the reorganization of the erstwhile State of Andhra Pradesh, to vacate the said interim order.

Heard Sri P.V.Krishnaiah, learned counsel for the petitioner-applicant, and the learned Government Pleader for Services-III, State of Telangana, for the respondents.

The petitioner-applicant was appointed as a Prohibition & Excise Inspector in Zone-V on 02.11.1996. She was thereafter promoted as an Assistant Prohibition & Excise Superintendent on 05.01.2010. She was suspended from service under proceedings dated 30.04.2010 of the Commissioner, Prohibition & Excise, but was subsequently reinstated in service on 16.05.2011. Departmental proceedings were initiated against her under Charge Memo dated 06.06.2011 of the Commissioner of Prohibition & Excise, whereunder three articles of charge were framed against her. She was called upon to submit her written statement of defence within ten days from the date of receipt of the order. On 03.08.2011, the petitioner-applicant submitted an eight-page written statement of defence. Having received the same, the Commissioner of Prohibition & Excise issued order dated 04.02.2012, appointing W.J.A.Manoranjan, General Manager, Andhra Pradesh Beverages Corporation Limited, as the Inquiring Authority to inquire into the charges framed against her. Asserting that the Disciplinary Authority was duty bound to consider her written statement of defence before resorting to the next step, *viz.*, appointment of an Inquiring Authority, the petitioner-applicant filed the subject O.A. According to her, the Disciplinary Authority

failed to follow the due procedure prescribed under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

On 26.09.2012, the Tribunal granted an interim order in O.A.No.7720 of 2012. This order reads as follows:

‘Pending disposal of the OA, there shall be interim suspension of further proceedings in pursuance of appointment of the Enquiry Officer vide CR.No.16896/2010/CPE/L2 dated 04.02.2012 and the respondents are also directed to consider the case of the applicant for promotion without reference to the Charge Memo as the enquiry is not completed within six months as mentioned under Rule 20 of the APCS (CC&A) Rules, 1991, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.’

It appears that the Tribunal was not informed of the fact that the Inquiring Authority had been changed in the meanwhile and V.G.Katakam, Joint Commissioner/General Manager, Andhra Pradesh Beverages Corporation Limited, was substituted as the Inquiring Authority in the place of W.J.A.Manoranjan, vide Office Order dated 23.08.2012 of the Commissioner of Prohibition & Excise. It may however be noted that the earlier order dated 04.02.2012 was specifically mentioned by the Commissioner at Reference No.5 of the later order dated 23.08.2012. That being so, it was not open to the authorities to continue with further proceedings in the inquiry against the petitioner-applicant in the light of the interim order granted by the Tribunal, set out *supra*. However, in their wisdom, the authorities chose to do so and the inquiry against the petitioner-applicant was concluded notwithstanding the interim order. The Inquiring Authority submitted report dated 15.03.2013 holding that all the three charges leveled against the petitioner-applicant were duly proved. This report was stated to have been received by the Commissioner on 20.03.2013. However, no further steps were taken basing on the inquiry

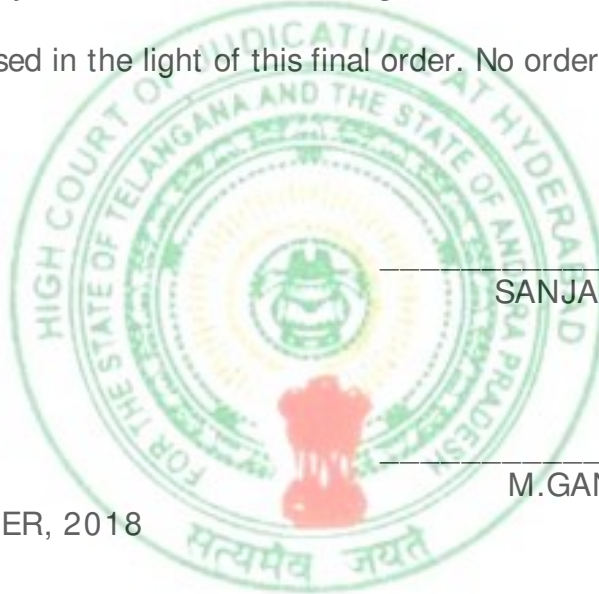
report at that stage. The O.A. along with the vacate stay petition filed therein by the authorities, in VMA No.1893 of 2012, was taken up for hearing by the Tribunal and the matter was finally disposed of by the order dated 03.03.2016. Even at that stage, the authorities did not deem it fit to inform the Tribunal that notwithstanding the stay orders granted on 26.09.2012, they had gone ahead with the inquiry and completed it in 2013 itself. That is the reason why the Tribunal directed the authorities to complete the departmental inquiry initiated against the petitioner-applicant through the Charge Memo dated 06.06.2011 within a time frame.

Given the aforesaid facts, it is clear that the authorities did not come clean before the Tribunal, be it at the stage of passing of the interim order or at the stage of passing of the final order. That apart, they acted in complete violation of the interim order granted by the Tribunal on 26.09.2012. The very holding of the inquiry, culminating in the inquiry report dated 15.03.2013, was therefore in violation of the said interim order. Basing on such an illegally conducted inquiry, ending in a report adverse to the petitioner-applicant, it is not open to the authorities to now proceed further.

It may be noted that the Commissioner of Prohibition & Excise, State of Telangana, issued letter dated 12.01.2018 forwarding the inquiry report dated 15.03.2013 to the petitioner-applicant and requesting her to submit her written representation, if any. As the very holding of the inquiry, culminating in the report dated 15.03.2013, was in utter violation of legal norms as the authorities cannot ignore the interim order passed by the Tribunal, the said report has no validity in the eye of law. As the said report would now have to be eschewed from consideration and the

matter would be restored to the stage of appointing of an Inquiring Authority afresh, it would be appropriate that the Commissioner of Prohibition & Excise, State of Telangana, considers the written statement of defence dated 03.08.2011 filed by the petitioner-applicant and thereafter takes a decision as to whether departmental proceedings need to be continued against her at this stage. There shall accordingly be a direction to that effect.

The writ petition is allowed to the extent indicated above. The order dated 03.03.2016 passed by the Tribunal in O.A.No.7720 of 2012 shall accordingly stand set aside. 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

28<sup>th</sup> DECEMBER, 2018

PGS