

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.3563 of 2018

ORDER: (Oral)

(Per Suresh Kumar Kait, J)

Vide the present petition, petitioner has challenged order dated 16.11.2011 passed in O.A.No.33 of 2006 by the A.P. Administrative Tribunal, whereby the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985, praying the Tribunal to issue directions declaring the action of the 1st respondent in rejecting his appeal vide proceedings dated 01.02.2006, has been dismissed.

2. Petitioner was appointed as an Armed Reserve Police Constable (ARPC) of Ranga Reddy District under the control of the Superintendent of Police. His probation was declared vide proceedings of the Superintendent of Police dated 24.03.1986. Thereafter, he fell sick to a disease called 'lumbago' for which he was hospitalised and was not in a position to attend his duties. He was totally bedridden from 14.11.1996. He informed the same to the 3rd respondent vide proceedings dated 05.12.1996. As he could not recover from the illness for a period of about 6 months, he submitted medical certificate on 01.07.1997. He was admitted to duty and immediately placed under suspension pending enquiry vide proceedings dated 04.07.1997. Thereafter, vide proceedings dated 17.02.1998, he was dismissed from service on the ground of unauthorised absence from 14.11.1996 to 30.06.1997. Being aggrieved, he filed O.A.No.33 of 2006, which was dismissed by the Tribunal vide order dated 16.11.2011.

3. Learned counsel appearing on behalf of the petitioner submits that petitioner remained absent due to the reasons of ill-health stated above,

however, not intentionally or deliberately; but this fact has been ignored by the disciplinary authority and the learned Tribunal as well. In the disciplinary proceedings, petitioner was not given proper opportunity to advance his case and the departmental proceedings were decided arbitrarily by dismissing him from service.

4. We note, charge memo dated 12.05.1997 was issued against the petitioner framing article of charge, which was communicated to him on 07.07.1997. He was also reminded vide office memo dated 30.07.1997 to submit his written statement of defence. Though he acknowledged the same on 19.08.1997, he failed to submit his written statement of defence. The D.S.P., Balanagar was appointed as enquiry officer to conduct an enquiry against the petitioner. On 14.10.1997, petitioner appeared before the enquiry officer and submitted an application requesting to be heard in person instead of a regular enquiry. The enquiry officer recorded his deposition on 07.11.1997 and submitted his minutes vide proceedings dated 10.12.1997 holding the charges levelled against the petitioner/delinquent officer as proved.

5. It is not in dispute that petitioner was appointed as Constable and was punished from 1988 to 1996, before passing order of dismissal, as under:

“1. D.O.No.107/88, dated 13.1.1988

Awarded PPI for one year without effect on future increments and pension for his disobedience of orders of the superiors.

2. D.O.No.1537/90, dt: 13.12.1990

Awarded PPI for one year without effect on future increments and pension for his unauthorised absence.

3. D.O.No.177/1992, dt: 27.1.1992

Awarded ‘Censure’ for his unauthorised absence

4. D.O.No.1123/1993, dt: 3.8.1993

Awarded 'Censure' for his unauthorised absence.

5. D.O.No.1077/1996, dt: 1.8.1996

Awarded PPI for one year without effect for his unauthorised absence

6. Another oral enquiry file was kept in abeyance as he was dismissed from service (unauthorised absence)."

6. It is submitted by the learned counsel for the petitioner that petitioner was bedridden from 14.11.1996 and information of the same was given to the 3rd respondent and on 01.07.1997 medical certificate was submitted. Thereafter, he resumed duties.

7. Fact remains that even before going bedridden from 14.11.1996, 5 punishments mentioned above were already in credit of the petitioner. We cannot overlook the fact that the petitioner is a Constable in a disciplined force and keeping in view of the aforesaid punishments awarded to him, we cannot say that the punishment of dismissal from service is disproportionate to the gravity of the proven charge. Moreover, the learned Tribunal dismissed the O.A., vide order dated 16.11.2011 and the present petition is filed in 2018 after inordinate delay and laches of 7 years.

8. Finding no merit in the petition, the same is accordingly dismissed.
No order as to costs.

Miscellaneous petitions, if any pending in the writ petition, stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

June 7, 2018
MRR

