

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 3914 of 2018

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 21.09.2017 in Complaint No. 5681/2013/B2 passed by the 1st respondent - Upa-Lokayukta for the States of Telangana and Andhra Pradesh, Hyderabad (for brevity "Upa-Lokayukta") whereby it is held as under:

"But, the report is silent with regard to the recovery of the misappropriated amount of Rs.1,90,400/- from the public servant and others. Therefore, the Secretary to Government, Municipal Administration & Urban Development Department, Telangana State, is directed to take necessary action for recovery of the aforesaid misappropriated amount from the above three (3) individuals, if not already recovered, and submit action taken report within four (4) months from the date of receipt of a copy of this order."

It is not in dispute that after disciplinary enquiry was conducted, the disciplinary authority issued orders in G.O.Rt.No. 578, dated 19.09.2017 against the petitioners as under:

"After careful examination of the findings of the enquiry report submitted by the Enquiry Officer and duly following the procedure, Government have decided to impose penalty of withholding of one annual grade increment without cumulative effect against the above three (3) officials. Accordingly, Government hereby order to impose penalty of withholding of one

annual grade increment without cumulative effect against the above three (3) officials.

The Director of Municipal Administration, Telangana State, Hyderabad shall take necessary action accordingly.”

In the aforesaid order, there is no specific direction for recovery of the alleged misappropriated amount of Rs.1,90,400/- from the petitioners. However, the impugned order reveals that in the report dated 14.10.2014 submitted by the 3rd respondent, the Government has been requested to issue necessary orders for recovery of the misappropriated amount, and merely based on such report, the learned Upa-Lokayukta directed the Secretary to the Government, Municipal Administration & Urban Development Department, to take necessary action for recovery of the misappropriated amount from the petitioners if already not recovered and submit a report within a period of four months from the date of receipt of a copy of the order.

It is not in dispute that when G.O.Rt.No.578 dated 19.09.2017 does not specify any direction for recovery of the alleged misappropriated amount from the petitioners, the Government cannot act upon the directions issued by the Upa-Lokayukta for such recovery. However, the undisputed fact is that the 2nd respondent, without issuing any notice to the petitioners nor conducting any enquiry as to the alleged irregularity of misappropriation of the amount, issued orders

in G.O.Rt.No.742, MA & UD Department, dated 22.11.2017 directing recovery of the alleged misappropriated amount in pursuance of the impugned order dated 21.09.2017 passed by the Upa-Lokayukta.

For the foregoing reasons, we hereby set aside the impugned order dated 21.09.2017 in Complaint No. 5681/ 2013/ B2 passed by the 1st respondent - Upa-Lokayukta only to the extent of recovery of the alleged misappropriated amount of Rs.1,90,400/- and the subsequent orders issued by the Government in G.O.Rt.No. 742, dated 22.11.2017. However, liberty is granted to respondent Nos.2 and 3 - Government to recover the alleged misappropriated amount from the petitioners if the same is permissible under law. It is needless to mention that the petitioners, if so advised, may challenge G.O.Rt.No. 578, dated 19.09.2017 before the appropriate forum.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

27.02.2018

SURESH KUMAR KAIT, J

bcj

ABHINAND KUMAR SHAVILI, J