

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

W.P.No. 7087 of 2018

ORDER:-

(Per the Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 27.02.2018 in O.A.No. 367 of 2018 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the Tribunal dismissed the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985.

The learned Senior Counsel appearing on behalf of the petitioner has drawn the attention of this Court to the order issued by the Government in G.O.Ms.No. 13, Water Resources (Vigilance-I/ A2) Department, dated 20.02.2018 which was challenged before the Tribunal in the aforesaid O.A., whereby the Secretary to the Government has passed the following order:

“Now, therefore, in exercise of the powers conferred under Clause (x) rule 9 read with sub-rule (i) of rule 25 of A.P. Civil Services (Classification, Control & Appeal) 1991 read with G.O.Ms.No.2, General Administration (Ser.C) Department, dated 04.01.1999, Government hereby order to impose a punishment of dismissal from service against Sri Ganji Lakshmi Naidu, the then Senior Assistant, O/o Deputy Executive Engineer, Irrigation Department, Parvathipuram, Vizainagaram District as he was found guilty of the charges and convicted by the orders of Hon'ble Special Judge for SPE & ACB Cases-cum-III Additional District and Sessions Judge, Visakhapatnam in their judgment dated 20.12.2017 in C.C.No. 18/ 2009, subject to outcome of Criminal

Appeal Miscellaneous Petition No. 3311 of 2017 in Criminal Appeal No. 1699/2017, pending before the Hon'ble High Court of Judicature at Hyderabad for the States of Andhra Pradesh and Telangana.”

The learned Senior Counsel submits that the observations made by the Government cannot be read as punishment of dismissal from service imposed on the petitioner for the reason that disciplinary authority is the Superintendent Engineer and not the Government. Therefore, G.O.Ms.No.13, dated 20.02.2018 deserves to be set aside.

It is not in dispute that the petitioner, vide judgment dated 20.12.2017 in C.C.No. 18 of 2009, was convicted of the offence punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 and sentenced to undergo Rigorous Imprisonment for three years for possessing disproportionate assets, and thereafter, on filing an appeal against the judgment of conviction, his sentence was suspended and he was released on bail.

We have perused the orders of the Government in G.O.Ms.13, dated 20.02.2018 wherein it is clearly mentioned that in exercise of the powers conferred under Clause (x) rule 9 read with sub-rule (i) of Rule 25 of A.P. Civil Services (Classification, Control & Appeal) Rules, 1991 read with G.O.Ms.No.2, General Administration (Ser.C) Department, dated 04.01.1999, the Government has imposed punishment of

dismissal from service on the petitioner. It is not in dispute that the Government is the appellate authority and it is evident that the dismissal order is passed by the appellate authority, as such, the same is not illegal in the eye of law. Therefore, G.O.Ms.No. 13, dated 20.02.2018 issued by the Secretary to the Government, by any stretch of imagination, cannot be said to be illegal or perverse.

Since appeal has already been preferred against the judgment of conviction, it would be justifiable for the petitioner to await delivery of the verdict in the appeal.

In view of the facts recorded above, we find no merit in the writ petition, and the same is accordingly dismissed. No order as to costs.

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

SURESH KUMAR KAIT, J

05.03.2018

ABHINAND KUMAR SHAVILI, J

bcj