

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

WRIT PETITION No.10495 OF 2018

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

The petitioner is the applicant in O.A.No.2235 of 2017 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. His prayer therein was to declare the action of the Commissioner, Tirupati Municipal Corporation, Tirupati, Chittoor District, the first respondent herein, in initiating and continuing disciplinary proceedings against him, *vide* Charge Memo dated 06.06.2015, as illegal. He sought a consequential direction to the authorities to consider and promote him as Office Superintendent with all consequential benefits. The O.A. was dismissed by the Tribunal subject to certain observations *vide* order dated 04.08.2017.

Perusal of the record reflects that the petitioner/applicant was involved in a case relating to possession of disproportionate assets. After investigation, the Director General of Anti Corruption Bureau, Hyderabad, sent a final report to the State Government informing it that the petitioner/applicant was in possession of disproportionate assets worth about Rs.3,28,778/-, which would come to 5.85% of his known sources of income. As the said value was less than 20% of his total income, the Government issued Memo dated 23.12.2008 to the effect that there was no need to take departmental action against him on that count. However, disciplinary proceedings were initiated by the Commissioner, Tirupati Municipal Corporation, Tirupati, Chittoor District, *vide* Charge Memo dated 06.06.2015, on three individual charges. These charges were in relation to the alleged failure of the petitioner/applicant in taking prior permission for acquiring immovable properties; alleged failure in submitting annual

property returns; and alleged failure in obtaining prior permission for running a business either in his name or in the name of his family members.

The Tribunal found that the subject matter of enquiry by the Anti Corruption Bureau was altogether different from the gravamen of the charges levelled against the petitioner/applicant under Charge Memo dated 06.06.2015 and therefore, there was no illegality in initiation of such disciplinary proceedings against him. As regards the plea of the petitioner/applicant that his case should be considered for promotion to the post of Office Superintendent, the Tribunal observed that it would be open to the selection committee to consider his case for promotion in the light of all the attending circumstances, including the Charge Memo. With this observation, the Tribunal deemed it appropriate to dismiss the O.A.

Sri R.Rajasekhar Rao, learned counsel for the petitioner/applicant, would point that in terms of G.O.Ms.No.679, General Administration (Services-C) Department, dated 01.11.2008, the Government stipulated that departmental enquiries in simple cases should be completed within three months and in complicated cases, within six months. He would assert that the failure on the part of the authorities in completing the departmental proceedings, despite issuance of the Charge Memo as long back as on 06.06.2015, is illegal.

This Court finds merit in this submission. It is not open to the disciplinary authority to sleep over the enquiry proceedings indefinitely, thereby causing irreparable loss to the interest of the employee. This is clear from the fact that the candidature of the petitioner/applicant for further promotion at this stage would be adversely impacted by the

pendency of the disciplinary proceedings initiated as long back as in June, 2015.

We therefore deem it appropriate to direct the Commissioner, Tirupati Municipal Corporation, Tirupati, Chittoor District, the disciplinary authority, to complete the departmental proceedings initiated against the petitioner/applicant under the Charge Memo dated 06.06.2015 within four months from the date of receipt of a copy of this order. In so far as the claim of the petitioner/applicant for consideration of his candidature for further promotion is concerned, the authorities are bound to consider his candidature in terms of G.O.Ms.No.257, General Administration (Services-C) Department, dated 10.06.1999.

The writ petition is disposed of with the above directions.

Pending miscellaneous petitions, if any, shall also stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Date: 02.04.2018
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