

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

WRIT PETITION NO.10785 OF 2018

ORDER: (per SK,J)

Heard the learned Assistant Government Pleader for Services appearing for the petitioners and Sri B.Kamalakar Rao, learned counsel on caveat for the respondent/applicant.

The writ petition arises out of the order dated 29.11.2017 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.2887 of 2017. The said O.A. was filed by the respondent herein assailing the cancellation of his provisional selection as a Stipendiary Cadet Trainee Police Constable (Civil) under Memo dated 28.08.2017. By the order under challenge, the Tribunal allowed the O.A. and set aside the Memo dated 28.08.2017. The Tribunal further directed the Chairman, State Level Police Recruitment Board, State of Andhra Pradesh, to order for the training of the respondent/applicant as a Stipendiary Cadet Trainee Police Constable (Civil) within a time frame. Aggrieved thereby, the respondents in the O.A. are before this Court.

Perusal of the order under challenge reflects that the Tribunal was guided by the decision of the Supreme Court in Avtar Singh v. Union of India¹. However, the Tribunal lost sight of the fact that in the said decision, the Supreme Court summarised its conclusion to the effect that while passing an order of termination from service or cancelling candidature on the ground of giving false information with regard to conviction or involvement in a criminal case, the employer shall take into consideration the Government Orders/instructions/rules applicable to the

¹ (2016) 8 SCC 471

employee/candidate at the time of taking the decision and take recourse to one of the measures that were set out in paras 38.4.1 to 38.11.

It is therefore clear that it is for the employer to finally take a decision in the matter keeping in mind the guidelines stipulated by the Supreme Court. On the strength of the aforestated decision, it was not open to the Tribunal to straight away set aside the Memo dated 28.08.2017 and direct restoration of the selection of the respondent/applicant.

In that view of the matter, the writ petition is allowed setting aside the order dated 29.11.2017 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.2887 of 2017. In terms of the law laid down by the Supreme Court in Avtar Singh¹, the respondent/applicant is given liberty to make a representation to the authorities concerned setting out his case. In the event such a representation is made, the authorities concerned shall consider the same in the light of paras 34 to 38 (both inclusive) of the judgment rendered by the Supreme Court in Avtar Singh¹. This exercise shall be completed expeditiously and in any event, not later than eight weeks from the date of receipt of the representation made by the respondent/applicant, if any.

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

Date:03.04.2018

Note:

Furnish C.C. in two days.

(B/o) GJ

