

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.6462 OF 2008

ORDER

This writ petition is filed for the following relief:

“...to issue writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in issuing dissent notice dated 4.3.2008 in Charge sheet No.G/XP.227/153/2/AP/08, dt.21.09.2005 when the petitioner is honourably acquitted in Sessions Case No.115/05 on the file of 1st Additional District and Sessions Judge, Ananthapur when the very base of allegation is disproved which is basis for the finding of the Enquiry Officer is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondent to sanction and release all benefits including the salaries for the suspension period from 21-01-2005 till 26-04-2005 and pass such other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

Heard Sri J.M.Naidu, learned counsel appearing for the petitioner and Sri C.Lakshmi Kumari, learned counsel appearing for the respondent.

It is the case of the petitioner that while working as Naik, in the month of April, 2001, he was falsely implicated in Cr.No.44 of 2001 (PRC No.154/01) under Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of the same, he was placed under

suspension *vide* proceedings dated 24-01-2005 and the same was subsequently revoked *vide* proceedings dated 27.04.2005. Thereafter, he was acquitted from the criminal case *vide* judgment dated 11.7.2006 in S.C.No.115 of 2005.

The grievance of the petitioner is that though he was acquitted from the criminal case, and the enquiry officer held that the charge levelled against him was not proved, the disciplinary authority issued the dissent notice dated 4.3.2008, without hearing the petitioner.

While admitting the writ petition, this Court on 27.03.2008 in WPMP No.8437 of 2008 granted interim stay of the impugned dissent notice.

Learned counsel appearing for the respondent submits that in view of the interim stay granted by this Court on 27.03.2008, no further proceedings have been initiated against the petitioner and he had retired from service on attaining the age of superannuation.

Now, the issue remains to be considered is as to whether the disciplinary proceedings are to be continued even after the retirement of the petitioner.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered

view that ends of justice would be met if a direction is given to the petitioner to submit a representation to the respondent.

Accordingly, the Writ Petition is disposed of directing the petitioner to submit a representation to the respondent stating that he was acquitted from the criminal case *vide* S.C.No.115 of 2005, dated 11.7.2006 and also retired from service, within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the respondent shall consider the same and pass appropriate orders thereon within a period of four weeks thereafter. However, this order will not preclude the respondent from proceeding against the petitioner, in accordance with law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

17th September, 2018
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