

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

WRIT PETITION NO.30992 OF 2010

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

O.A.No.3119 of 2008 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), was filed by the first respondent herein assailing G.O.Ms.No.1249, Revenue (Vigilance.IV) Department, dated 24.06.2005, whereby he was visited with the punishment of 50% cut in pension permanently. By order dated 24.08.2010, the Tribunal allowed the O.A. Aggrieved thereby, the respondents in the O.A., the Government of Andhra Pradesh, the Commissioner of Endowments, Andhra Pradesh, and the Accountant General, Andhra Pradesh, filed this writ petition.

By order dated 14.12.2010, this Court granted interim suspension of the order under challenge. The same was made absolute on 19.07.2011.

The first respondent-applicant retired from service on 31.07.2002. He worked as a Deputy Commissioner of Endowments at Hyderabad prior to his retirement. Charge Memo dated 14.07.1992 was issued to him alleging certain irregularities, one of which was that he had passed a fraudulent order on 09.12.1996 in O.A.No.85 of 1996 declaring that an extent of Ac.10.00 cents situated at Taranagar Village, Ranga Reddy District, was non-endowment land though it belonged to a temple. Another allegation was that he had reinstated one R.Takrya, Record Assistant, who was under suspension, after imposing upon him the punishment of stoppage of two annual grade increments with cumulative effect. As regards the other charges levelled against the first respondent-applicant, the enquiry officer recorded findings to the effect that the said charges were not worthy of

consideration. He however held that the charge in relation to reinstatement of R.Takrya was proved as the punishment imposed was not commensurate. As regards the passing of a fraudulent order on 09.12.1996 in O.A.No.85 of 1996, the enquiry officer held the said charge proved. After calling for an explanation from the first respondent-applicant, the Government imposed upon him the punishment of 50% cut in pension permanently.

Be it noted that both the charges held proved related to discharge of quasi-judicial functions by the first respondent-applicant. As regards one charge, the finding was that commensurate punishment had not been imposed and as regards the other, the finding was that the first respondent-applicant had passed a fraudulent order.

The question that arises is whether the first respondent-applicant could be found fault with by way of departmental proceedings with regard to discharge of such quasi-judicial functions.

This issue is no longer *res integra*.

In ZUNJARRAO BHIKAJI NAGARKAR V/ s. UNION OF INDIA¹, the Supreme Court observed that when one talks of negligence in a quasi-judicial adjudication, it is not negligence perceived as carelessness, inadvertence or omission, but culpable negligence. Reference was made to STATE OF PUNJAB V/ s. EX-CONSTABLE RAM SINGH², wherein 'misconduct' was interpreted to mean not mere error of judgment, carelessness or negligence in performance of duty, and it was observed that if every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi-judicial officers. It was held that to maintain a charge-sheet against a quasi-judicial authority, something more has to be alleged than a mere mistake of law, for instance,

¹ (1999) 7 SCC 409

² (1992) 4 SCC 54

some extraneous consideration influencing the quasi-judicial authority. It was further observed that the entire system of administrative adjudication, whereunder quasi-judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in doing so without fear or favour because of the constant threat of disciplinary proceedings. Again, in RAMESH CHANDER SINGH V/ s. HIGH COURT OF ALLAHABAD³, the Supreme Court observed that it had on several occasions disapproved the practice of High Courts initiating disciplinary proceedings against officers of the subordinate judiciary merely because judgments or orders passed by them were wrong.

Applying the aforesaid legal principle to the case on hand, it is not the case of the authorities that the first respondent-applicant had passed either of the orders in question upon any extraneous considerations. Further, we are informed that the Government itself entered into a compromise with the petitioner in O.A.No.85 of 1996 with regard to the subject land therein and made over the said land to him upon payment of market value. As regards the other order, it may be noted that the first respondent-applicant imposed a major penalty upon R.Takrya and we are now informed that on appeal by him, the Government itself set aside the penalty imposed, under G.O.Ms.No.110 dated 22.02.2000. As it was not the case of the authorities that the first respondent-applicant passed the orders in question on the strength of any extraneous considerations, there was no cause to initiate disciplinary proceedings against him in relation thereto. The punishment imposed upon him on the strength of these charges was therefore clearly unsustainable in law. The order of the Tribunal holding to this effect does not brook interference, be it on facts or in law.

³ (2007) 4 SCC 247

The writ petition is devoid of merit and is accordingly dismissed.
Interim order dated 14.12.2010 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

20th APRIL, 2018

Sv

