

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

W.P.No.16837 OF 2017

ORDER: (ORAL)

(per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioners have assailed the order dated 02.09.2016 passed in O.A.No.8104 of 2013 by the Andhra Pradesh Administrative Tribunal at Hyderabad, whereby the application filed by the respondent No.1/applicant under Section 19 of the Administrative Tribunal Act 1985 has been allowed. Being aggrieved, the petitioners have filed the present petition.

2. Learned counsel appearing on behalf of the petitioners submits that the learned tribunal has erred in relying upon order dated 06.12.2012 passed in O.A.No.6283 of 2010. She has drawn attention of this Court to the charge in O.A. No.6283 of 2010 as under:

“Sri D. Jaya Kumar was enlisted as Police Constable on 15.12.1983 in Visakhapatnam City with General No.1922. He is due to retire from service on superannuation on 28.2.2019. He is, hereinafter, called as Government Servant. That the Government Servant exhibited gross misconduct by abusing his mother-in-law in filthy language and beat her with hands, caught hold her tuft of hair, dragged her from his house and tampered her pustule thadu and threatened her to kill. In this connection, a criminal case was registered against him vide Cr.No.130/2009 u/s.354, 323, 509 and 506 of Malkapuram P.S., Visakhapatnam City, and that he was arrested on 01.06.2009 and sent to judicial custody. He was in judicial remand till 23.06.2009.”

3. She further drawn attention of this Court to the charge against the petitioners in the case in hand, as under:

“Article-I : Gross misconduct in abetting the death of his wife Smt. Yadala Mohana Vamsi resulting in involving in a criminal case vide Cr.No.258/12 U/s 420, 494, 498(A), 306 IPC of Krishna Lanka P.S., Vijayawada City.”

4. She submits that the charges are different in both the cases therefore the learned tribunal has wrongly relied upon order dated 06.12.2012 passed in O.A.No.6283 of 2010.

5. It is pertinent to mention here that this matter was posted on 05.06.2017 and learned Government Pleader sought time to file some documents which are necessary for adjudication of the present petition. Till date no document has been filed to distinguish the order dated 06.12.2012 passed in O.A.No.6283 of 2010. However, the subject matter in O.A.No.6283 of 2010, the applicant therein, exhibited gross misconduct by abusing his mother-in-law in filthy language and beat her with hands caught hold her tuft of hair, dragged her from his house and tampered her pustule thadu and threatened to kill. Whereas, the case in hand, the charge against respondent is gross misconduct in abetting the death of his wife Smt Yadala Mohana Vamsi resulting in involving in a criminal case vide Crime No.258 of 2012 under Sections 420, 494, 498(A) and 306 IPC of Krishnalanka P.S., Vijayawada.

6. Since the employees in both the cases i.e., in O.A. No.6283 of 2010 & O.A.No.8104 of 2013 committed an offence and criminal case have been registered, therefore, we find no difference between the order passed in O.As., by the tribunal. Thus, no error committed by the Tribunal in relying upon order dated 06.12.2012 in O.A.No.6283 of 2010, while allowing an order dated 02.09.2016 in O.A.No.8104 of 2013.

7. Finding no merit in the instant petition and the same is accordingly dismissed.

There shall be no order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.



SURESH KUMAR KAIT, J.

ABHINAND KUMAR SHAVILI, J.

Date : 25-06-2018
Gvl