

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

WRT PETITION NO.31949 OF 2013

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

This matter relates to removal of a Home Guard from the rolls of the Home Guards Organization, Nizamabad.

Learned Government Pleader for Home for the State of Telangana, the successor-in-interest of the first petitioner-State of Andhra Pradesh, would contend that the matter is not covered by the common order dated 08.06.2018 passed by this Court in W.P.No.35460 of 2013 and batch in relation to the very same issue. His argument is based on the fact that the first respondent herein, the applicant in O.A.No.2742 of 2013 before the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), was issued three show-cause notices prior to his removal from the service under order dated 29.04.2008 of the Superintendent of Police, Nizamabad District.

We are not inclined to accept this plea. Perusal of the show-cause notices dated 05.10.2007, 06.11.2007 and 28.12.2007 demonstrates that the first respondent-applicant was merely asked thereby to attend to his duties within 30 days from the date of receipt thereof and in the passing, it was mentioned that if he failed to do so, it would be presumed that he was not interested in such employment leading to his removal from the rolls of the Home Guards Organization. These show-cause notices would not suffice in terms of Rule 7(4) of the Rules framed under the Andhra Pradesh Home Guards Act, 1948, as interpreted by this Court in STATE OF ANDHRA PRADESH V/ s. P.PRASAD RAO¹.

¹ 2012 (1) ALD 76

As there is a clear violation of the aforestated Rule and the edict of this Court in STATE OF ANDHRA PRADESH V/ s. P.PRASAD RAO¹, as applied by this Court in the common order dated 08.06.2018 passed in W.P.No.35460 of 2013 and batch, we find no merit in this writ petition. No grounds are made out to interfere with the order dated 18.04.2013 passed by the Tribunal in O.A.No.2742 of 2013.

This writ petition is accordingly dismissed subject to the following conditions:

1. The first respondent-applicant shall be subjected to a physical test to ascertain his fitness before being re-inducted in service as Home Guard. An objective and transparent procedure shall be adopted by the State and its police officials in this regard and if he deserves, he shall again be enrolled on the rolls of the Home Guards Organization.
2. His enrolment shall, however, not have the effect of conferring upon him the benefit of continuity of service, seniority, arrears of pay etc. for all purposes. His enrolment would be on par with fresh appointment.

Interim order dated 11.11.2013 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

27th AUGUST, 2018

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