

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

WRIT PETITION No.23897 OF 2008

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The petitioner is the unsuccessful applicant in O.A.No.550 of 2007 on the file of the Central Administrative Tribunal, Hyderabad Bench, which was dismissed by common order dated 19.03.2008. Therein, he had assailed the Order-in-Appeal No.1 of 2007 dated 28.03.2007 passed by the Commissioner of Central Excise and Customs, Tirupati Commissionerate.

The petitioner/applicant filed W.P.M.P.No.15459 of 2017 in this writ petition stating that the penalty imposed upon him which stood confirmed in appeal required examination in the light of the Full Bench decision of the Tribunal in O.A.No.107 of 2012 and batch. A copy of the order dated 08.02.2012 passed in the batch is placed on record.

The issue raised by the petitioner/applicant in the O.A. before the Tribunal was with regard to the penalty imposed upon him in the disciplinary proceedings initiated while he was discharging functions as an Inspector of Central Excise. This penalty was in the form of reduction of his pay by two stages for a period of one year with the effect of postponing his future increments of pay. The said penalty was upheld *vide* Order-in-Appeal dated 28.03.2007 which was subjected to challenge before the Tribunal.

While so, we are now informed that the other employees who were charged in relation to the very same irregularities were also subjected to similar punishment orders but when the same were assailed, the Full Bench of the Tribunal set aside the punishments imposed upon them *vide*

order dated 08.02.2012 in O.A.Nos.107 and 127 of 2008 and 229 of 2009.

The departmental proceedings which were the basis for imposition of penalties were held to have been conducted in violation of the rules and procedure and also the principles of natural justice. The Full Bench also found that the findings of the Enquiry Officer were based on no evidence.

In the light of this development, whereby others who were co-accused along with the petitioner/applicant were given relief by the Full Bench of the Tribunal on the strength of the finding that the departmental proceedings were not conducted in accordance with prescribed procedure, and as we are informed that the evidence adduced in all the enquiries was the same, the benefit of the findings of the Full Bench of the Tribunal in the order dated 08.02.2012 must necessarily be extended to the petitioner/applicant also.

On this ground, the writ petition is allowed setting aside the order passed by the Tribunal as well as the penalty orders visited upon the petitioner/applicant.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE M.GANGA RAO

Date: 25.04.2018
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