

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

WRIT PETITION NO.1830 OF 2015

ORDER: (per SK,J)

The State of Andhra Pradesh and its police authorities filed this writ petition aggrieved by the order dated 28.08.2014 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.5188 of 2014. The said O.A. was filed by the first respondent herein assailing the action of the authorities in not allowing him to attend his duties as a Home Guard on the ground that he was absent for few days without passing any removal order. By the order under challenge, the Tribunal directed the authorities to allow the applicant therein to continue in service if there were no removal orders and accordingly disposed of the O.A. Aggrieved thereby, the authorities filed this writ petition.

By order dated 04.02.2015, this Court granted interim suspension of the order under challenge. W.V.M.P.No.4370 of 2015 was filed by the first respondent to vacate the said order.

Learned Government Pleader for Services, Andhra Pradesh, would point out that this was not a case of removal of the name of the first respondent from the rolls of the Home Guards Organisation. She would assert that he absented himself from duty and his whereabouts were not known thereafter.

Perusal of the record reflects that the first respondent claimed to have worked as a Home Guard between 1996 and 1998. There is no indication of the first respondent having taken any steps if he was not allowed to rejoin duties after 1998 up to the year 2014, when he filed the present O.A. As the authorities claimed that the whereabouts of the first respondent were unknown, no blame can be laid at their door for not

resorting to removal of the name of the first respondent from the rolls of the Home Guards Organisation in accordance with the due procedure on the ground of unauthorised absence. In any event, the delay on the part of the first respondent in seeking relief if he was not allowed to rejoin duty as a Home Guard is fatal. Reference in this regard may be made to the recent judgment of the Supreme Court in UNION OF INDIA v. CHAMAN RANA¹, wherein the Supreme Court observed that retrospective consideration for promotion after 17 to 20 years was unsustainable even if the employee concerned made repeated representations. In the present case, the first respondent stands on a worse footing as there is no indication of his having made any representations at all during the period of 16 years prior to his filing the O.A. The Tribunal therefore ought not to have granted relief to the first respondent as his case was clearly hit by laches. The order dated 28.08.2014 passed by the Tribunal in O.A.No.5188 of 2014 is therefore set aside.

The writ petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

Date:27.08.2018
GJ

¹ (2018) 5 SCC 798