

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

WRIT PETITION No.20035 OF 2015

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

The State of Andhra Pradesh and its authorities in the Education Department filed this writ petition aggrieved by the order dated 14.03.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.6607 of 2011. The said O.A. was filed by the first respondent herein assailing the proceedings dated 10.01.2011 of the Commissioner and Director of School Education, Andhra Pradesh, and the consequential proceedings dated 01.03.2011 of the District Educational Officer, Chittoor, whereby the period of suspension undergone by him was treated as 'not on duty'. He also sought a consequential direction to the authorities to regularize the period of his suspension from 01.08.2007 to 16.06.2009 as on duty with all consequential benefits. By the order dated 14.03.2013, the Tribunal held that the suspension of the first respondent-applicant from service was bad in law and accordingly directed the authorities to treat the period of his suspension from 01.09.2007 to 16.06.2009 as 'on duty' for all purposes with consequential benefits like salary and allowances. The period of absence from 01.08.2007 to 31.08.2007 was directed to be treated as earned leave as an application had been submitted for that purpose.

Sri Jandhyala Partha Saradhi, learned counsel, would inform this Court that by the date of institution of this writ petition on 19.06.2015, the first respondent-applicant was no more as he had expired on 08.12.2014. Unmindful of this aspect, this Court granted interim suspension of the order under challenge on 08.07.2015. It was only on

21.02.2017 that the widow of the first respondent-applicant was brought on record as the third respondent.

Heard the learned Government Pleader for Services, Andhra Pradesh, and Sri Jandhyala Partha Saradhi, learned counsel for the third respondent.

It is not in dispute that the suspension from service of the first respondent-applicant was relatable to the fact that he was arrested on 07.08.2007 on account of his failure to discharge his decretal dues in O.S.No.308 of 2006 on the file of the learned Junior Civil Judge, Kuppam. He seems to have been committed to Central Prison, Kadapa, as a civil prisoner for 21 days from 07.08.2007 to 27.08.2007. After his release, he joined in duty on 01.09.2007 and submitted an application seeking sanction of one month earned leave from 02.08.2007 to 31.08.2007. However, the District Educational Officer, Chittoor, placed him under suspension on 13.09.2007 pending disciplinary proceedings.

It is an admitted fact that no disciplinary proceedings were ever initiated against the first respondent-applicant but he remained under suspension for no less than 686 days. Significantly, this was not a case where the first respondent-applicant was subjected to incarceration owing to any criminal charges. He was sentenced to civil imprisonment owing to his failure to discharge his decretal dues. The same had no impact upon his services as a Primary School Headmaster as it did not involve any moral turpitude or criminal tendencies. It was due to these factors that the Tribunal ultimately opined that the very suspension of the first respondent-applicant was bad in law.

When it is not in dispute that the first respondent-applicant was not even subjected to any disciplinary proceedings though he was placed

under suspension and kept in the same status for 686 days, the question of the authorities baldly treating the said suspension period as 'not on duty' appears to be wholly self-serving and completely unsustainable in law. The order of the Tribunal granting him relief therefore does not warrant interference on any count.

The writ petition is devoid of merit and is accordingly dismissed.

Interim order dated 08.07.2015 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 19.09.2018
PGS



SANJAY KUMAR, J

M. GANGA RAO, J