

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.31268 OF 2014

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

1. Vide the present petition, the petitioners have assailed the order dated 21st March, 2014 passed in M.A.No.3142 of 2013 in O.A.No.1877 of 2013 by the A.P. Administrative Tribunal, Hyderabad.

2. Brief history of the case is that respondent No.1 had filed an application under Section 19 of the Administrative Tribunals Act, 1985 before the Tribunal praying to quash the initiation of departmental proceedings by issuing articles of charges in Charge Memo No.8425/V3/2007-1, dated 5.4.2009 in respect of incident dated 24.11.2007; articles of charges in charge Memo No.3149/V4/2008-7, dated 30th May, 2008 in respect of the surprise check conducted on 10.5.2008 by ACB authorities and the articles of charge in Memo No.2821/V3/2003, dated 9.8.2007 on the ground of delay and also as per the law laid down by the Hon'ble Supreme Court of India reported in 1992(1)SCC 225; 1998(4) SCC 154; 2005(6) SCC 88 and 1995(2) SCC 570, and consequently to declare that the 1st respondent-applicant is entitled for promotion for the post of Motor Vehicles Inspector.

3. The said O.A. was disposed of vide order dated 25.3.2013 by directing the petitioners herein to consider the case of the 1st respondent-applicant for promotion to the post of Motor Vehicles Inspector, without reference to the Articles of Charges issued by the 1st petitioner herein in Charge Memo No.8425/V3/2007-1, dated 5.4.2009; No.3149/V4/2008-7, dated 30th May, 2008 and another Charge Memo No.2821/V3/2003,

dated 9.8.2007. The petitioners were further directed to complete the disciplinary proceedings within a period of eight weeks from the date of receipt of a copy of the order; otherwise, the charges will automatically get dropped. Respondent No.1-applicant was also directed to co-operate with the disciplinary proceedings.

4. Since the petitioners could not conclude the disciplinary proceedings within the time granted by the Tribunal, they filed M.A.No.1560 of 2013 for extension of time, and the same was disposed of vide order dated 4.7.2013 by extending four months time from the date of the order. The petitioners had not still concluded the disciplinary proceedings, and thereafter, they filed another M.A.No.3142 of 2013 wherein the following orders were passed:

“The learned Counsel for the applicants filed this M.A. on 11.11.2013 requesting to extend time for another four months to conclude the disciplinary proceedings against the applicant.

Four months period was already over. Therefore, the M.A. has become infructuous.”

The said application M.A.No.3142 of 2013 was dismissed vide order dated 21st March, 2014 being infructuous. But, thereafter the petitioners did not file another application before the Tribunal seeking extension of more time by explaining the delay in concluding the enquiry. Challenging the said order, the present petition has been filed.

5. The learned Government Pleader for Services I on behalf of the writ petitioners submits that there were several charges against respondent No.1 and therefore, they could not conclude the enquiry within the time and they sought extension after extension before the Tribunal, and in

M.A.No.1560 of 2013, four months time was granted. But M.A.No.3142 of 2013 was dismissed being infructuous. To strengthen her contentions, the learned Government Pleader has relied upon the judgment of the Supreme Court in **Secretary, Forest Department and Others Vs. Abdur Rasul Chowdhury**¹.

6. In the order dated 25.3.2013 passed in O.A.No.1877 of 2013, it was specifically stated that the disciplinary proceedings shall be concluded within a period of eight weeks from the date of receipt of copy of the order, otherwise, the charges will automatically get dropped. Firstly, the petitioners should have taken that direction seriously. Secondly, in M.A.No.1560 of 2013, the learned Tribunal granted four months more time even though in the order dated 25.3.2013 granted only two months time. The extended time was expired on 14.11.2013 and thereafter, M.A.No.3142 of 2013 was dismissed vide order dated 21.3.2014.

7. From the record, we have seen that the petitioners neither asked this Court to hear this matter as there is urgency nor filed any expedite petition. The petitioners have taken the Tribunal and this Court for granted.

8. The fact remains undisputed is that before this Court the order dated 21.3.2014 passed in M.A.No.3142 of 2013 in O.A.No.1877 of 2013 is under challenge. The learned Government Pleader appearing for the petitioners failed to explain how the order dated 21.3.2014 is passed with perversity and illegality. The case relied upon by the learned Government Pleader in support of her contention that the delay in concluding the domestic enquiry proceedings is not fatal to the proceedings, and it depends on the

¹ (2009) 7 SCC 305

facts and circumstances of each case, cannot be made applicable to the present case as the facts narrated in the present case are different from the facts and circumstances of the case cited by the learned Government Pleader.

9. Finding no merits in the present writ petition, the same is accordingly dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 30th January, 2018.
Nn.



HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.31268 OF 2014

(Oral order delivered by the Hon'ble Sri Justice Suresh Kumar Kait)



30/01/2018

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