

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

I.A.No.1 OF 2018 IN WRIT APPEAL No.1161 OF 2018
AND
WRIT APPEAL No.1161 OF 2018

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

This appeal by the State of Telangana and its officials in the Police Department is directed against the order dated 21.06.2017 passed by a learned Judge of this Court in W.P.(TR).No.173 of 2017.

The respondent herein filed O.A.No.10566 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, assailing the order dated 30.06.2010 passed by the Superintendent of Police, Nizamabad District, removing his name from the rolls of the Home Guards Organization without conducting an enquiry and in violation of the principles of the natural justice. He also sought a direction to the authorities to reinstate him in service with all consequential benefits. Upon abolition of the Andhra Pradesh Administrative Tribunal in so far as the State of Telangana is concerned in September, 2016, the said O.A. was transferred to the file of this Court and re-numbered as W.P.(TR).No.173 of 2017. By the order under appeal, the learned Judge held that the authorities failed to abide by the law laid down by this Court in State of Andhra Pradesh v. P. Prasad Rao¹ and accordingly allowed the writ petition directing the authorities to restore in service the respondent-writ petitioner as a Home Guard. The learned Judge however held that he would not be entitled to claim wages for the period he was out of service. Aggrieved by the direction of reinstatement, the State and its police authorities filed this appeal.

¹ 2012 (1) ALD 76 (DB)

However, the appeal was preferred with a delay of 376 days in its presentation and I.A.No.1 of 2018 was filed seeking condonation of the said delay. As the affidavit filed in support of this condone delay petition was found to be inadequate, learned Government Pleader for Services, State of Telangana, sought time to file a better affidavit. I.A.No.3 of 2018 was thereafter filed by the appellants seeking leave to place on record the additional affidavit in support of the condone delay petition and the same was taken on record *vide* separate order passed today.

We find that even this better affidavit leaves a lot to be desired. Paras 4 and 5 thereof set out the reasons for the delay and they read as under:

“4. It is to submit that the reasons for delay in filing the writ appeal are that the copy of the Hon'ble High Court was received on 10.07.2017. Thereafter on 20.07.2017 consulted to the Govt. Pleader for Home Service, Telangana State High Court Hyderabad for legal opinion on the above said order and the Govt. Pleader for Home Service, Telangana State High Court Hyderabad has given his legal opinion on 06.09.2017. As per legal opinion of the Govt. Pleader for Home Service, Telangana State High Court Hyderabad, on 29.09.2017 a letter was addressed to the IGP, Home Guards, Telangana State for further orders. According to the oral instructions of the IGP, Home Guards, Telangana State again consulted the Govt. Pleader for Home Service, Telangana State High Court Hyderabad on 22.02.2018 for legal opinion and the Govt. Pleader for Home Service, Telangana State High Court Hyderabad has given his legal opinion on 13.03.2018. As per legal opinion of the Govt. Pleader for Home service, Telangana State High Court Hyderabad, on 17.03.2018 a letter was addressed to the IGP, Home Guards, Telangana State for further orders.

5. In this circumstance stated above, it is to submit that, it is fact that the IGP, Home Guards, Telangana State has instructed to file the writ appeal against the orders in W.P.(TR).No.173 of 2017 dated: 21.06.2017. Accordingly a draft affidavit was prepared and submitted at Govt. Pleader for Home service, Telangana State High Court Hyderabad on 07.06.2018 and the draft affidavit was approved by the

Govt. Pleader for Home service, Telangana State High Court Hyderabad on 22.06.2018 and Writ appeal submitted on 28.06.2018 at Govt. Pleader for Home service, Telangana State High Court Hyderabad, and an application was filed to obtain certified copy of Order in W.P.(TR) 173/17 on 29-06-2018 and the copy of certified was received on 16-08-2018. Further the Writ Appeal was filed on 01.08.2018 against the orders in W.P.(TR) No 173 of 2017 dated: 21.06.2017.”

Be it noted that no explanation is forthcoming from the aforestated paragraphs as to why the authorities felt it necessary to seek an opinion from the learned Government Pleader twice. It may also be noted that they did not even choose to file an application for a certified copy of the order till 29.06.2018. The aforestated paragraphs merely indicate that the authorities were indulging in usual red-tape and were pushing paper. When the delay is in excess of one year and an opportunity was given to the authorities to come up with a better affidavit explaining the delay, the aforestated paragraphs fall woefully short of cogently explaining the delay. We therefore find no grounds to condone the delay and entertain this appeal on merits.

I.A.No.1 of 2018 in W.A.No.1161 of 2018 is accordingly dismissed.

In consequence, W.A.No.1161 of 2018 stands dismissed.

Other pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

M. GANGA RAO, J

Date: 19.11.2018
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