

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

WRIT PETITION NO.17826 OF 2015

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The State of Telangana and its authorities in the Education Department filed this writ petition aggrieved by the order dated 26.11.2014 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'), in O.A.No.4683 of 2014. The said O.A. was filed by the first respondent herein seeking a declaration that the action of the authorities in keeping him under prolonged suspension without enquiry, *vide* the suspension order dated 19.06.2002, was illegal; to consequently set aside the said suspension order; and to direct the authorities to pay him subsistence allowance since the date of the suspension order apart from treating the suspension period as 'on duty' without consequential benefits. By order dated 26.11.2014, the Tribunal disposed of the O.A. setting aside the suspension order dated 19.06.2002 and directing the authorities to reinstate the first respondent in service with all consequential benefits. An appropriate order in this regard was directed to be passed within six weeks from the date of receipt of a copy of the order.

By order dated 23.06.2015, this Court granted interim suspension of the order under challenge.

Heard the learned Government Pleader for Services-I, State of Telangana, and Sri Prabhakar Sripada, learned counsel for the first respondent.

I.A.No.1 of 2018 was filed by the first respondent seeking to file certain additional material papers. The said I.A. is ordered and the documents are taken on record.

Perusal of the proceedings dated 04.05.2015 passed by the District Educational Officer, Ranga Reddy District, demonstrates that pursuant to the order dated 26.12.2014 passed by the Tribunal in O.A.No.4683 of 2014 and as per the instructions of the Director of School Education, Telangana, under proceedings

dated 30.04.2015, the District Educational Officer, Ranga Reddy District, permitted the first respondent to join duty at PS Anmagal, Hayathnagar Mandal, Ranga Reddy District, subject to the orders of this Court in this writ petition. In effect, even prior to the interim suspension granted by this Court on 23.06.2015, the authorities chose to reinstate the first respondent in service.

In this regard, it may be noted that Fundamental Rule 54-B of the Fundamental Rules stipulates that when a Government Servant who is suspended from service is reinstated, the authority competent to order reinstatement shall consider and make a specific order as to how the period of suspension is to be treated. Learned Government Pleader does not dispute this legal position but would state that even prior to the reinstatement order passed in the year 2015, the authorities reinstated the first respondent in service in the year 2005 itself, but he did not choose to join duty. However, this aspect of the matter was also considered by the Tribunal in the order under challenge and the Tribunal found that no documentary evidence was available with the authorities to show that such reinstatement orders were given to the first respondent and that he chose to abscond from duties even thereafter.

Though the learned Government Pleader for Services would place reliance on the extract from some register, wherein an entry is made in one of the columns against the name of the first respondent to the effect that he was reinstated in service *vide* proceedings dated 15.11.2005 and posted at UPS, Naganpally, Ibrahimpatnam, he would fairly concede that a copy of the said proceedings is not even available.

Even if we accept that such proceedings were issued unless the said proceedings were served upon the first respondent and despite that, he chose to ignore the same, the argument of the authorities would not stand. However, as already noted, there is no evidence available with the authorities to show actual service of any reinstatement order upon the first respondent in the year 2005.

We therefore find no grounds to interfere with the order passed by the Tribunal holding to the effect that issuance of a notice to the first respondent as

late as in September, 2014 with regard to his alleged unauthorised absence would be unsustainable in the light of the authorities sleeping over the matter since 2002. Further, as the authorities did not choose to pass any order at the time of reinstatement of the first respondent in service as to how the period of his suspension is to be treated and no disciplinary proceedings were ever initiated against him, it necessarily has to be concluded that the suspension of the first respondent from service was wholly unjustified. It is too late in the day for the authorities to now seek to exercise any discretion under F.R.54-B.

Be it viewed from any angle, the writ petition is found to be devoid of merit and is accordingly dismissed. I.A.No.1 of 2018 is ordered. Interim order dated 23.06.2015 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

10th OCTOBER, 2018

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