

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

WRIT PETITION No. 28277 OF 2018

ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

The petitioner is the applicant in O.A.No.641 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'). Thereby, he sought to challenge G.O.Ms.No.126, Revenue (Vigilance-III.1) Department, dated 07.03.2018, whereunder he was dismissed from service by the Government of Andhra Pradesh based on his conviction in C.C.No.34 of 2016 on the file of the learned Special Judge for SPE & ACB Cases, Nellore. By order dated 15.06.2018, the Tribunal dismissed the O.A. Hence, the writ petition.

2. Sri B.Raju, learned counsel for the petitioner, would contend that in terms of clause (i) of Rule 25 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 (for short 'the Rules, 1991'), when the penalty is sought to be imposed on a Government servant on the ground of his conduct which led to his conviction in a criminal case, the disciplinary authority must necessarily consider each and every aspect of such conduct before taking a decision as to the imposition of penalty. The learned counsel would assert that the contents of G.O.Ms.No.126 dated 07.03.2018 demonstrate that the Government failed to live up to the

expected standard of consideration while levying the penalty of dismissal from service upon the petitioner. He would also place reliance on *Union of India and another Vs. Tulsiram Patel*¹ in this regard.

3. It may be noted that in terms of the law laid down by the Supreme Court in *Tulsiram Patel* (1 supra), when a disciplinary authority is considering the conduct of a Government servant who has been convicted on a criminal charge for the purpose of imposition of penalty, it would have to peruse the judgment of the Criminal Court and consider all the facts and circumstances of the case. The Supreme Court further observed that once the disciplinary authority reaches the conclusion that the Government servant's conduct was such as to require his dismissal or removal from service or reduction in rank, it must decide which of the these three penalties should be imposed on him.

4. In the case on hand, it is not in dispute that the petitioner was convicted under Sections 7 and 13(1)(d)/13(2) of the Prevention of Corruption Act, 1988. G.O.Ms.No.126 dated 07.03.2018 reflects that he was trapped by the Anti-Corruption Bureau on 30.05.2015 when he was demanding and accepting the sum of Rs.6,000/- as a bribe. The Tribunal was of the opinion that the requirement of law as laid down

¹ AIR 1985 S.C. 1416

by the Supreme Court in *Tulsiram Patel* (1 supra) was duly complied with as Para 1 of G.O.Ms.No.126 dated 07.03.2018 set out the facts of the criminal case; Para 2 thereof set out the facts relating to the conviction and sentence imposed upon the petitioner; and Paras 3 and 4 evidenced the consideration of such conviction by the Government, the disciplinary authority, for imposing suitable punishment.

5. It may also be noted that the Government specifically referred to G.O.Ms.No.2, General Administration (Services-C) Department, dated 04.01.1999, which advocated imposition of the penalty of dismissal from service in a case involving bribery. On the basis of this reasoning, the Tribunal dismissed the O.A.

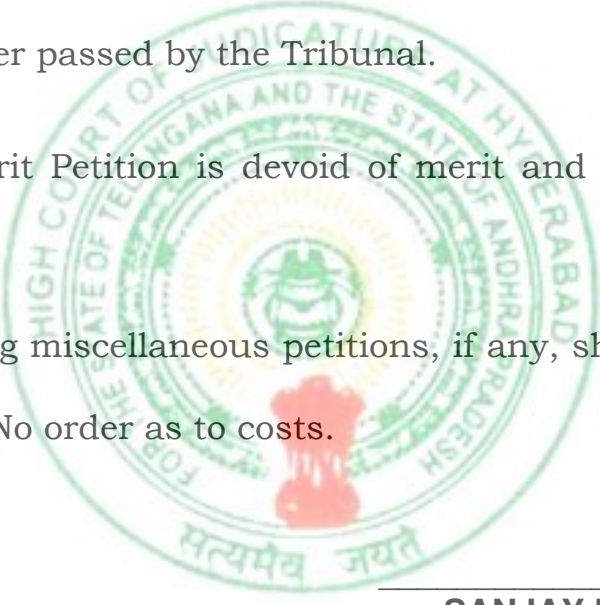
6. Having considered the afore-stated order and the submissions of Sri B.Raju, learned counsel, we are of the opinion that when the conviction of the Government servant was under the Prevention of Corruption Act, 1988, the level of application of mind in terms of clause (i) of Rule 25 of the Rules, 1991, need not be on par with the consideration which would be expected in the event conviction is under the ordinary penal law, unconnected with the discharge of official duties by such Government servant. When the Government servant is convicted of having accepted a bribe in the course of his official duties, it straightaway impacts the entitlement

of such person to continue in Government service and the conduct which led to his conviction would speak for itself and require no further consideration. That apart, as rightly pointed out by the Tribunal, the impugned Government Order reflects proper consideration on all relevant aspects before imposition of the penalty of dismissal from service upon the petitioner.

7. Viewed from any angle, we find no grounds to interfere with the order passed by the Tribunal.

8. The Writ Petition is devoid of merit and is accordingly dismissed.

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



SANJAY KUMAR, J

M.GANGA RAO, J

Date: 23.08.2018
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WRIT PETITION No. 28277 OF 2018

23rd day of August, 2018

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