

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

WRIT PETITION NO.29481 OF 2018

ORDER: (per SK,J)

The petitioners, who are respondents 6 and 7 in O.A.No.407 of 2014 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, are aggrieved by the dismissal of their review petition in Rev.MA(SR).No.611 of 2018 filed in the said O.A., *vide* order dated 12.04.2018.

O.A.No.407 of 2014 was filed by the fifth respondent herein seeking a declaration that she was entitled to compassionate appointment consequent upon the death of her husband, late M.Naga Subbaiah, and a consequential direction to the authorities to provide her such appointment apart from releasing the service benefits due to the deceased employee. By order dated 16.03.2016, the Tribunal took note of the fact that late Naga Subbaiah was originally married to one Arunamma, the mother of the petitioners herein, and after her death, he married the applicant in the O.A. As the counsel for the petitioners who appeared before the Tribunal stated that he had no objection to the appointment of the applicant on compassionate grounds and also for release of family pension along with 3/5th share in the service benefits of the deceased employee, the Tribunal allowed the O.A. directing the authorities to appoint the applicant on compassionate grounds and release family pension to her. The authorities were further directed to release 3/5th of the death-cum-pensionary benefits of late Naga Subbaiah to the applicant and the remaining 2/5th share to the petitioners herein. Aggrieved by this order, the petitioners filed W.P.No.17886 of 2016 before this Court. By order dated 09.06.2016,

this Court dismissed the writ petition giving liberty to the petitioners to avail the remedy of review before the Tribunal, taking note of the submission that no concession had been made on their behalf by their counsel as recorded by the Tribunal.

It appears that a letter 'for being mentioned' was thereupon moved before the Tribunal and by order dated 11.07.2016, the Tribunal simply deleted paragraph 9 of its original order wherein the concession made on behalf of the petitioners was recorded. The petitioners thereupon filed W.P.No.46094 of 2016 before this Court assailing the orders dated 16.03.2016 and 11.07.2016 passed by the Tribunal in O.A.No.407 of 2014. The said writ petition was dismissed by this Court *vide* order dated 03.01.2018 observing that the prayer challenging the original order dated 16.03.2016 passed in the O.A. could not be entertained in view of the fact that the same was the subject matter of challenge in the previous writ petition, W.P.No.17886 of 2016, and the prayer relating to the subsequent order dated 11.07.2016 would not advance the cause of the petitioners as restoration of paragraph 9 in the order dated 16.03.2016 would only invite a greater penalty upon them. The petitioners then filed Rev.MA(SR).No.611 of 2018 in O.A.No.407 of 2018 before the Tribunal. By the order under challenge, the Tribunal opined that its earlier order stood merged with the High Court order which had become final and therefore, the review application was not maintainable. It is this order which is now subjected to challenge.

Sri Satish Kumar Varma, learned counsel for the petitioners, fairly concedes that no liberty was sought from this Court to again file a review petition when W.P.No.46094 of 2016 was dismissed. The same is also borne out by the order.

In the light of the observation made in the said order to the effect that challenge to the original order dated 16.03.2016 passed in the O.A. could not be entertained as the same was the subject matter of challenge in W.P.No.17886 of 2016, this Court finds no error having been committed by the Tribunal in concluding that the said order passed by it stood merged with the order dated 09.06.2016 passed in W.P.No.17886 of 2016. This was the import of the observation made by this Court in paragraph 9 of the order in W.P.No.46094 of 2016. In that view of the matter, the order passed by the Tribunal does not warrant interference.

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.

Date:20.08.2018

GJ



SANJAY KUMAR,J

M.GANGA RAO,J