

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

WRIT PETITION No.30036 OF 2018

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

Aggrieved by the dismissal of O.A.No.627 of 2018 filed by him before the Andhra Pradesh Administrative Tribunal (*hereinafter*, 'the Tribunal'), Hyderabad, *vide* order dated 09.04.2018, the applicant therein is before this Court. His prayer in the said O.A. was to set aside the impugned Memo dated 21.12.2017 issued by the State of Andhra Pradesh and consequently direct the authorities to treat the gap period from 27.04.1993 to 21.12.2017 as on duty for all purposes. By the order under challenge, the Tribunal opined that no reason was made out to entertain the O.A. and accordingly dismissed it.

The petitioner-applicant was appointed as a Village Administrative Officer in the year 1992 at Deenabandhupuram Village, Melliaputti Mandal, Srikakulam District. By that time, he was already in employment as a Branch Post Master at Anthakapalli Village, Rajam Mandal, Srikakulam District but he continued in both the posts.

Rule 68(1) of the Andhra Pradesh Village Administrative Officers Service Rules, 1990 (for short, 'the Rules of 1990'), permits a Village Administrative Officer to take up subsidiary occupation as a Branch Post Master in the charge village only. As Anthakapalli Village was at a distance of about 100 kms. from Deenabandhupuram Village, the Revenue Divisional Officer, Palakonda Division, Srikakulam District, called upon the petitioner-applicant to submit his resignation to either of the two posts. However, he did not choose to do so. In that view of the matter, the Revenue Divisional Officer issued order dated 17.05.1993 terminating the

services of the petitioner-applicant as the Village Administrative Officer at Deenabandhupuram Village.

The petitioner-applicant seems to have filed review petition dated 07.07.1993 under Rule 55(2) of the Rules of 1990 before the Government of Andhra Pradesh. Having kept quiet about the inaction on the said review petition for nearly 22 years, he filed W.P.No.19715 of 2015 before this Court assailing the action of the State Government in not passing orders on his review petition. Be it noted that the petitioner-applicant ought not to have approached this Court directly in the light of the law laid down by the Supreme Court in *L. Chandra Kumar v. Union of India*¹. However, inadvertently, this Court entertained the said writ petition and disposed of the same by order dated 02.07.2015 directing consideration of the review petition filed by the petitioner-applicant. Thereupon, the Government of Andhra Pradesh issued Memo dated 21.12.2017 holding that the request of the petitioner-applicant for relief was not feasible in terms of the rules. The Government therefore refused to set aside the order dated 17.05.1993 passed by the Revenue Divisional Officer, Palakonda Division, Srikakulam District. Aggrieved thereby, the petitioner-applicant filed O.A.No.627 of 2018 before the Tribunal.

Perusal of the order passed by the Tribunal, presently under challenge, reflects that the Tribunal was of the opinion that the order dated 17.05.1993 was not amenable to review. This view is patently erroneous inasmuch as Rule 55(2) of the Rules of 1990 vests the Government with review jurisdiction to be exercised either *suo motu* or upon an application from any person interested. In any event, having exercised such review jurisdiction, the Government of Andhra Pradesh issued the Memo dated 21.12.2017 wherein, after considering the merits of the matter, the Government expressed the opinion that the request of

¹ (1997) 3 SCC 261

the petitioner-applicant for review of the order dated 17.05.1993 passed by the Revenue Divisional Officer, Palakonda Division, was not feasible as per rules.

Sri T.Tejeswara Rao, learned counsel for the petitioner-applicant, does not dispute the fact that Rule 68 of the Rules of 1990 permits a Village Administrative Officer to take up the subsidiary occupation of Branch Post Master at the charge village only. He also does not dispute the fact that Anthakapalli Village where the petitioner-applicant was working as a Branch Post Master is at a distance of nearly 100 kms. from Deenabandhupuram Village where he was appointed as the Village Administrative Officer. He also does not dispute the fact that the Revenue Divisional Officer, Palakonda Division, offered the option to the petitioner-applicant to resign from one or the other of the posts but he did not choose to do so.

In that view of the matter, we are of the opinion that the order passed by the Revenue Divisional Officer, Palakonda Division, terminating the services of the petitioner-applicant as the Village Administrative Officer at Deenabandhupuram Village was justified and the review order passed by the Government refusing to set aside the same was also reasonable. No cause was made out for the Tribunal to interfere and the dismissal of the petitioner-applicant's O.A. was therefore valid on merits.

The writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

Dt: 27.08.2018
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