

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 16735 of 2017

O R D E R:- (ORAL)

(Per Hon' ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 22.08.2016 in O.A.No. 6155 of 2014 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the application filed by the 1st respondent under Section 19 of the Administrative Tribunals Act, 1985, has been allowed.

The brief facts of the case are that the 1st respondent was earlier imposed with punishment of "stoppage of three annual grade increments without cumulative effect and the suspension period from 19.09.2008 to 25.12.2008 was treated as "not on duty" vide Proc.Pc.No.4051/ 08-S8, dated 28.06.2010 issued by D.F.O., Khammam. This punishment was imposed based on the charge Memo dated 14.05.2009. Subsequently, the 1st respondent was issued with another charge Memo dated 16.08.2012 by the D.F.O., Khammam that he failed to prevent the illegal fallings and transportation of bamboo from R.F. Nagupally and failed to seize the vehicle and misled the officers. Accordingly, he was imposed punishment of stoppage of one increment without cumulative effect vide Proc.No. 2391/ 2012-S8, dated 28.05.2013. The

punishment was confirmed in appeal vide Proc.Rc.No.1682/ 2013-on 1-A, dated 05.08.2014.

Being aggrieved by the orders in the appeal, 1st respondent filed O.A.No. 6149 of 2014 and the same was allowed by the Tribunal vide order dated 31.12.2015 and the punishment of stoppage of one annual grade increment without cumulative effect was set aside.

In the meanwhile, another Charge Memo was issued against the 1st respondent by DFO, Khammam in Rc.No. 4556/ 2010/ S8, dated 04.12.2010 framing two charges i.e. (i) he had exhibited gross negligence of duty resulting in encroachment in 40 hectare in Compt. No. 143 of Pentlam beat of Sathupally Range (ii) he had failed to protect the plantation of teak and E.P. raised in 15.5 hectare in Compt.No.13 of Annupuredypally RF of Pentlam Beat resulting in loss of expenditure worth Rs.53,675/- . The 1st respondent was imposed punishment of stoppage of one annual grade increment with cumulative effect besides recovery of Rs.53,675/- on 25.09.2012 by DFO, Khammam.

On appeal preferred by the 1st respondent, the Conservator of Forests, Khammam Circle, Khammam set aside the punishment and ordered *de novo* enquiry vide Proc. Rc.No. 3090/ 2012-M1-A, dated 11.08.2014. This order was challenged by the 1st respondent in O.A.No. 6153 of 2014 and

during its pendency *de novo* enquiry was conducted with due participation of the 1st respondent and punishment of stoppage of increment with cumulative effect was imposed by DFO in Rc.No. 4556/ 2020/ S8, dated 19.05.2015. In spite of the aforesaid order, the learned Tribunal has allowed the O.A. filed by the 1st respondent.

It is pertinent to mention here that at the time of admission of O.A., the Tribunal, vide its order dated 21.10.2014, passed an interim order directing the petitioners to consider the case of the 1st respondent for promotion to the post of Forest Section Officer without reference to the *de novo* enquiry on the basis of the Charge Memo, vide Ref.No.4556/ 10-S8, dated 04.12.2010, subject to his otherwise eligibility and seniority. While the 1st respondent was working as Forest Beat Officer, he was imposed with a punishment of stoppage of one annual grade increment without cumulative effect through proceedings dated 28.05.2013. Aggrieved by the said order, the 1st respondent filed O.A.No. 6149 of 2014. The learned Tribunal set aside the said punishment orders on 31.12.2015.

The case of the petitioners herein is that as the 1st respondent was under punishment, he was not eligible for promotion as Forest Section Officer as on 01.09.2014, but the fact remains that as on 01.09.2014, there was no punishment

in currency against the 1st respondent for the reason that the punishment of stoppage of one annual grade increment without cumulative effect was set aside by the Tribunal on 31.12.2015.

The 1st respondent was eligible for being considered his case for promotion to the post of Forest Section Officer as on 01.09.2014. Further, the punishment of stoppage of annual grade increment with cumulative effect imposed through proceedings No. 4556/ 2010/ S8, dated 19.05.2015 does not come in the way of the 1st respondent for the reason that the panel was prepared on 01.09.2014. Therefore, we are not inclined to interfere with the well-reasoned order passed by the Tribunal.

The writ petition is devoid of merit and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

13.06.2018

ABHINAND KUMAR SHAVILI, J

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