

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

WRIT PETITION No.37811 OF 2018

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

The petitioner is the unsuccessful applicant in O.A.No.2350 of 2015 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, which was dismissed by order dated 07.06.2018. The prayer of the petitioner in the said O.A. was directed against the order dated 10.07.2014 passed by the Superintendent of Police, YSR Kadapa District, dismissing him from service as a Police Constable. By the order dated 07.06.2018, the Tribunal noted that the petitioner did not avail the alternative remedy of appeal provided to him under Rule 33 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991, against the punishment order dated 10.07.2014 and approached the Tribunal directly. Holding that there were no special or extraordinary circumstances to entertain the O.A., the Tribunal dismissed the same granting liberty to the petitioner to approach the appellate authority against the impugned punishment order, subject to the period of limitation.

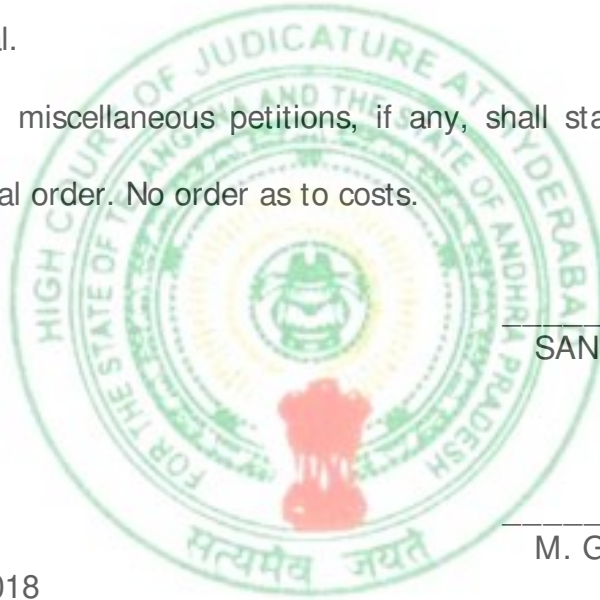
Sri P.Srinivas Rao, learned counsel for the petitioner, would point out that the O.A. was kept pending on the file of the Tribunal since 2015 and was dismissed three years later on the ground of availability of an alternative remedy. He would further submit that the Tribunal did not even save the period of limitation in the context of the time consumed due to the pendency of the O.A. before it.

We find merit in the aforestated submission. Having kept the matter pending for nearly three years, the Tribunal decided to relegate

the petitioner to the alternative remedy of appeal. Therefore, the Tribunal ought to have held that the period consumed owing to the pendency of the O.A. should be deducted while reckoning the period of limitation for filing an appeal.

The writ petition is accordingly disposed of making it clear that if and when the petitioner avails the appellate remedy, the appellate authority shall be mindful of the fact that the petitioner chose to approach the Tribunal in the first instance against the punishment order dated 10.07.2014 and the period of time taken for disposal of the said O.A. since its inception shall be deducted while calculating the period of limitation for filing an appeal.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

M. GANGA RAO, J

Date: 22.10.2018
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