

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

WRIT PETITION Nos.39648 and 39761 OF 2018

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

The petitioners in these two cases are the unsuccessful applicants in O.A.Nos.746 and 748 of 2018 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The said O.As. were filed by them assailing the proceedings dated 07.07.2017 issued by the Commissioner of Police, Visakhapatnam City, Visakhapatnam District, whereby they were removed from the rolls of the Home Guards Organization. They sought consequential declarations that they were entitled to be continued as Home Guards in the Home Guards Organization in Visakhapatnam City with all benefits. By common order dated 19.04.2018, the Tribunal dismissed the O.As. Aggrieved thereby, they filed the present writ petitions.

Perusal of the common order under challenge reflects that both the petitioners filed appeals aggrieved by their removal from the rolls of the Home Guards Organization. The Tribunal was of the opinion that when the said appeals were pending before the appellate authority, it would not be open to the petitioners to simultaneously approach it for relief. The O.As. were accordingly dismissed giving liberty to the petitioners to pursue their appeals.

As the record would demonstrate, the petitioners filed appeals as long back as in July, 2017. The learned Government Pleader for Services, State of Andhra Pradesh, was accordingly directed to get instructions as to the status of the said appeals.

Today, the learned Assistant Government Pleader for Services, State of Andhra Pradesh, would inform this Court that the authorities are unable to trace out the appeals filed by the petitioners.

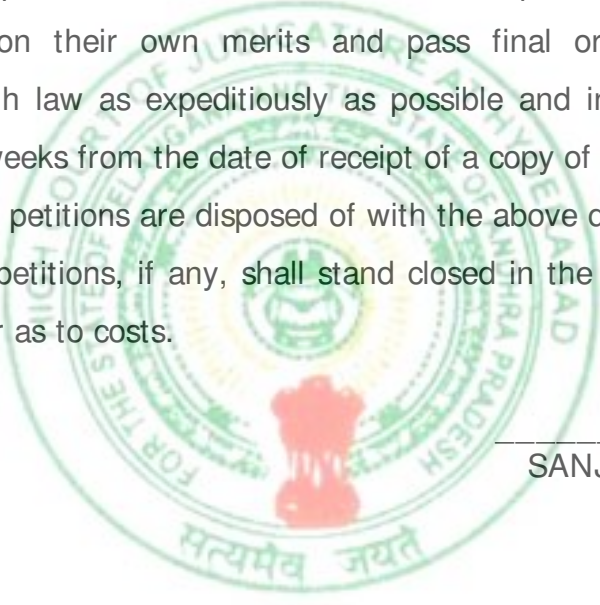
Sri A.Sreedhar, learned counsel for the petitioners, would however point out that in so far as the petitioner in W.P.No.39761 of 2018 is concerned, the acknowledgment card received from the Inspector General of Police, Home Guards, State of Andhra Pradesh, the second respondent, being the appellate authority, in proof of receipt of the appeal petition is

on record and therefore, it is not open to the authorities to say that they do not have the appeal petitions.

As both the petitioners suffered a common order before the Tribunal and one of them is in a position to prove that his appeal petition was duly received by the appellate authority, we are inclined to give the benefit of doubt to the petitioner in W.P.No.39648 of 2018 also. That apart, the appeal petitions seem to be on identical lines clearly demonstrating that the petitioners filed the appeals in a concerted effort. In any event, the appeal petitions are now part of the record in these writ petitions and it is for the appellate authority to act upon the same.

As the appeals have been pending consideration since 2017, as is borne out by the acknowledgment card, we direct the appellate authority, the second respondent herein, to forthwith take up the said appeals for consideration on their own merits and pass final orders thereon in accordance with law as expeditiously as possible and in any event, not later than six weeks from the date of receipt of a copy of this order.

The writ petitions are disposed of with the above direction. 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: 19.11.2018

Note:-

Issue CC in three days.

(B/o)

IBL