

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

WRIT PETITION No.37353 OF 2014

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

The State of Andhra Pradesh and its police officials filed this writ petition aggrieved by the order dated 02.09.2014 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.8605 of 2012. The said O.A. was filed by the first respondent herein assailing the proceedings dated 13.02.2009 issued by the Commandant, 14th Battalion (IR), APSP, Tadipatri, Anantapur District, Andhra Pradesh, removing him from service, and the consequential proceedings dated 19.02.2010 and 14.06.2010 of the Deputy Inspector General of Police-3, APSP Battalions, Kurnool, and the Additional Director General of Police, APSP Battalions, Hyderabad, respectively, confirming the same. By the order dated 02.09.2014, the Tribunal opined that the punishment of removal from service imposed upon the first respondent-applicant was shockingly disproportionate to the misconduct of absenting himself from duty for 21 days and accordingly set it aside. The matter was remitted back to the Commandant, 14th Battalion (IR), APSP, Tadipatri, Anantapur District, for fresh consideration with a direction to impose a lesser penalty other than the penalty of dismissal, removal or compulsory retirement from service.

By order dated 05.12.2014, this Court granted interim suspension of the order under challenge. I.A.No.1 of 2018 was filed by the first respondent-applicant to vacate the said order.

Heard the learned Government Pleader for Services, State of Andhra Pradesh, and Sri S.Surender Reddy, learned counsel representing Sri A.Ravinder, learned counsel for the first respondent-applicant.

It is not in dispute that the reason for the first respondent-applicant absenting himself from duty for a period of 21 days was due to the fact that his father had died and he left to his native village for performing his last rites.

However, the learned Government Pleader would point out that the rider attached by the Tribunal to the effect that the lesser penalty that is to be imposed should be other than dismissal, removal or compulsory retirement from service was not warranted. She would state that the discretion in this regard ought to have been left to the authorities concerned, keeping in mind the fact that the first respondent-applicant is a member of a uniformed service and that he had suffered as many as four punishments earlier.

We find from the record that the first respondent-applicant had absented himself from duty on no less than five occasions from 2003 to 2007. That being so, even if he had a valid reason for his unauthorized absence on the last of those occasions, it is not reason enough for him to be dealt with lightly. Ultimately, it is for the disciplinary authorities concerned to weigh all the pros and cons and decide upon the punishment to be imposed, mindful of the fact that the first respondent-applicant was a member of a uniformed service.

The writ petition is accordingly allowed to the extent of deleting the words 'other than the penalty of dismissal, removal or compulsory retirement' from the order dated 02.09.2014 passed by the Tribunal in O.A.No.8605 of 2012. The Commandant, 14th Battalion (IR), APSP, Tadipatri, Anantapur District, shall consider the matter afresh and decide the lesser penalty, duly taking into account the physical fitness of the first respondent-applicant to be re-inducted into the service, if warranted.

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: 14.09.2018
PGS/IBL

