

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

WRIT PETITION NO.14910 OF 2014

ORDER: (per SK,J)

The State of Andhra Pradesh and its police authorities filed this writ petition aggrieved by the order dated 18.02.2014 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.1152 of 2014. The said O.A. was filed by the first respondent herein assailing his removal from the rolls of the Home Guards Organisation, Kurnool, *vide* order dated 31.07.2013 passed by the Additional Director General of Police, Home Guards, Andhra Pradesh, on the ground of unauthorised absence. He also sought a direction to the authorities to reinstate him in service with all consequential benefits. By order dated 18.02.2014, the Tribunal opined that the matter was squarely covered by its earlier order dated 25.04.2013 passed in O.A.No.1493 of 2013 and batch and accordingly allowed the O.A. Hence, this writ petition.

By order dated 03.06.2014, this Court granted interim suspension of the order under challenge.

Learned Government Pleader for Services, Andhra Pradesh, would contend that the Tribunal was in error in concluding that the matter was covered by the earlier adjudication. She would also point out that the common order dated 08.06.2018 passed by this Court in W.P.No.35460 of 2013 and batch would have no application to the case on hand.

Upon perusing the record, we are inclined to accept the submission of the learned Government Pleader.

In all the cases referred to *supra*, the authorities failed to abide by Rule 7(4) of the Rules of 1949 framed under the provisions of the Andhra

Pradesh Home Guards Act, 1948, and the law laid down by a Division Bench of this Court in *State of Andhra Pradesh v. P. Prasad Rao*¹. However, insofar as the present case is concerned, the material placed before this Court demonstrates that the first respondent was issued as many as three show cause Memos on 22.08.2008, 12.09.2008 and 12.10.2008 calling upon him to submit his explanation for his unauthorised absence from 12.08.2008. The record also reflects that these show cause Memos were received by one Y. Venkatamma, who is stated to be the mother of the first respondent. Despite the same, the first respondent did not choose to submit his written explanation accounting for his unauthorised absence. Thereupon, the Home Guards Committee considered the matter and decided to impose the penalty of removal from the rolls of the Home Guards Organisation. The Additional Director General of Police, Home Guards, approved the proposed penalty *vide* Memo dated 30.10.2008. In consequence, the name of the first respondent was removed from the rolls of the Home Guards Organisation, Kadapa, *vide* Office Order dated 21.11.2008.

Though this writ petition was filed in the year 2013 and the first respondent entered appearance through learned counsel, Sri M.V.S. Sai Kumar, as long back as on 21.02.2015, no counter affidavit has been filed rebutting his aforestated averments in the writ affidavit.

In the light of the above facts which remain unchallenged, the authorities cannot be accused of failing to abide by the due procedure as per rules and the law laid down by this Court in *P. Prasad Rao*¹. The order of the Tribunal treating the matter as one covered by its earlier adjudication is therefore unsustainable and is accordingly set aside.

¹ 2012 (1) ALD 76

The writ petition is accordingly allowed. 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:27.08.2018

GJ

