

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.NO.39168 OF 2017

ORAL ORDER (Per the Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioner has assailed the order dated 31.08.2017 passed by the Andhra Pradesh Administrative Tribunal in O.A.No.2513 of 2017, whereby, the learned Tribunal dismissed the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 to declare the proceedings in Rc.No.30370/VC.II.A/2007, dated 9-2-2017 issued by the Director of Public Health and Family Welfare, Andhra Pradesh directing to conduct re-inquiry into the charges framed against the petitioner on 7.3.2005, as wholly illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and consequently declare that the respondents are not entitled to conduct re-inquiry into the matter and that the petitioner is entitled for release of entire pension and other benefits.

Brief facts of the case are that the petitioner was appointed as Entomologist in the year 1980 and promoted as Senior Entomologist in the year 1985. Thereafter, in the year 1999, the petitioner was transferred and posted as District Malaria Officer. On 9.7.2005, the petitioner was posted as District Malaria Officer, Kadapa District. On 7.3.2005, charge memo was issued to the petitioner. Petitioner submitted his explanation to the said charge memo on 13.06.2005. Inquiry Officer submitted his report on 28.11.2007. The Government issued orders imposing punishment of 1% cut in pension permanently against the petitioner on 28.12.2011. The petitioner submitted representation dated 1.10.2012 requesting to once again peruse the relevant records and drop further action against him.

On 14.09.2015 the Director of Public Health, Hyderabad appointed Inquiry Officer to inquire into charge No.1 after obtaining the focal spray file. On 25.04.2016 the Inquiry Officer submitted report holding the charge No.1 as 'not proved'. The Director of Public Health and Family welfare issued orders dated 9.2.2017 appointing Inquiry Officer to conduct re-inquiry into the said charges framed against the petitioner.

Being aggrieved, petitioner filed O.A.No.2513 of 2017 questioning the proceedings dated 9.2.2017 before the Tribunal. By the impugned order, the Tribunal dismissed the O.A.

The learned counsel appearing on behalf of the petitioner submits that initially the Inquiry Officer submitted his report holding charge No.1 as 'not proved'. He further submits that if the Disciplinary Authority is not in agreement with the said report, it has to give dissent note and show cause notice to the petitioner. But in the present case, the respondents failed to give dissent notice to the petitioner, however appointed another Inquiry Officer to re-inquire into charge No.1 framed against the petitioner, and the same is in violation of principles of natural justice.

The learned Government Pleader for Services appearing for the respondents – State has fairly conceded that if the Disciplinary Authority is not in agreement with the report of the Inquiry Officer, it has to issue dissent notice and proceed further. In the instant case, such a notice has not been issued.

In view of the facts noted above and the statement made by the learned Government Pleader for Services appearing for the respondents, we hereby set aside the order dated 31.08.2017 passed by the Tribunal and consequently quash the proceedings in Rc.No.30370/VC.II.A/2007

dated 9.2.2017 issued by the 2nd respondent – Director of Public Health and Family Welfare, Andhra Pradesh.

However, we grant liberty to the respondents to take steps against the petitioner, if they are so advised, on the report submitted by the Inquiry Officer holding the charge No.1 as ‘not proved’, by following the procedure established under law.

The writ petition is accordingly disposed of.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.



SURESH KUMAR KAIT,J

ABHINAND KUMAR SHAVILI,J

DATE:24-01-2018
AVS