

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

* * * *

WRIT PETITION No.44026 of 2018

Between

Kode Srinivasu

... Petitioner

and

The Director of Animal Husbandry,
State of Andhra Pradesh, Hyderabad, and others.

... Respondents

DATE OF JUDGMENT PRONOUNCEMENT: 4th DECEMBER, 2018

SUBMITTED FOR APPROVAL:

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

- | | |
|--|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the judgment? | Yes/No |
| 2. Whether copies of the judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether His Lordship wishes to see the fair copy of the judgment? | Yes/No |

SANJAY KUMAR, J

M.GANGA RAO, J

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

+ WRIT PETITION No.44026 of 2018

% DATED 4TH DECEMBER, 2018

Between

Kode Srinivasu

... Petitioner

and

\$ The Director of Animal Husbandry,
State of Andhra Pradesh, Hyderabad, and others.

... Respondents

< Gist:

> Head Note:

! Counsel for petitioner : Sri P.V.Ramana

^ Counsel for the respondents : GP for Services-I (TG)

? CASES REFERRED:



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

WRIT PETITION NO.44026 of 2018

JUDGMENT: (per SK,J)

The petitioner is the unsuccessful applicant in O.A.No.2637 of 2016 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, which was dismissed by order dated 19.08.2016. The grievance of the petitioner-applicant in the said O.A. was with regard to the Memo dated 03.03.2016, whereby the Government of Telangana refused to reconsider the order of dismissal from service dated 30.05.2011 passed against him in spite of his acquittal in C.C.No.204 of 2005 on the file of the learned Judicial Magistrate of First Class, Madhira, *vide* judgment dated 20.02.2015.

It is an admitted fact that the petitioner-applicant was dismissed from service on 30.05.2011. It appears that C.C.No.204 of 2005 came to be instituted against him on the self-same issue which led to his dismissal from service and the same ended in his acquittal, *vide* judgment dated 20.02.2015 by the competent criminal Court.

Surprisingly, the petitioner-applicant did not choose to file a revision under Rule 40 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short, 'the Rules of 1991'), applicable to the State of Telangana, but chose to approach the Member of the Legislative Assembly from Wyra Constituency. This string-pulling by the petitioner-applicant resulted in the Minister for Agriculture, Government of Telangana, also sponsoring his case. However, the Principal Secretary to the Government, Animal Husbandry, Dairy Development & Fisheries (V&F)

Department, Government of Telangana, issued the impugned Memo dated 03.03.2016, wherein he stated as under:

'The attention of the Director of Animal Husbandry, Hyderabad is invited to the references cited and he is informed that the law is very clear that disciplinary proceedings and criminal case though simultaneously can be proceeded, but are independent in nature. The proof of evidence required in Criminal Case should be beyond reasonable doubt, where-as in disciplinary proceedings the proof of evidence is on preponderance of probabilities. That apart, the dismissal orders were passed more than 4 years ago. The CCA rules do not permit any re-examination of such order. As such, no course of action to reopen the issue.'

It is against this Memo that the petitioner-applicant filed the subject O.A. By the order under challenge, the Tribunal opined that the degree of proof required in criminal proceedings differed from that required in departmental proceedings and as the dismissal order against the petitioner-applicant was passed more than four years ago, no reason was made out to interfere in the O.A. It is on this basis that the Tribunal dismissed the O.A.

Perusal of Rule 40 of the Rules of 1991 demonstrates that *suo motu* revisionary power by the Government thereunder can only be exercised within four years from the date of passing of the order. Had the petitioner-applicant chosen to file a revision petition immediately after his acquittal in the criminal case, perhaps the revision would have been within time and he could have at least asked for exercise of revisionary power on the merits of the matter.

However, in his wisdom, the petitioner-applicant chose to take recourse to influencing the permanent executive through the political executive but we find that the permanent executive rightly took recourse

to the correct legal position and refused to interfere in the matter. It is laudable that the Principal Secretary stood firm in the light of the temporal restriction in Rule 40 of the Rules of 1991 and did not give in to the pressure of the political masters of the day.

We therefore find no grounds whatsoever to interfere in this matter. The writ petition is utterly devoid of merit and it is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

Date:04.12.2018

L/R copy to be marked - Yes
B/o GJ

