

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT PETITION No.5600 of 2019

ORDER: *(per the Hon'ble Justice Sri A.Rajasheker Reddy)*

This writ petition is filed against the order dated 19.11.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.4903 of 2013, whereunder and whereby the Tribunal dismissed the O.A. confirming the order of punishment of withholding entire gratuity besides 20% cut in pension imposed against the petitioner.

2. Learned counsel for the petitioner submits that on the same allegations mentioned in Charge Memo dated 29.07.1995, the respondents initiated criminal proceedings against the petitioner and he was acquitted in all the criminal cases, which goes to show that the order of punishment was imposed against the petitioner without application of mind and hence, the same is liable to be set aside. He also submits that the Enquiry Officer was one of the witnesses in a criminal case and based on his evidence, the petitioner was acquitted in the said criminal case.

3. On the other hand, learned Government Pleader for Social Welfare sought to sustain the impugned order.

4. In this case, it is to be seen that the order of punishment impugned in the O.A. was passed in the year 2000, but the O.A. was filed in the year 2013. Further, the writ petition is also filed with a delay of more than five years.

5. Though the petitioner contended that the order of punishment was not communicated to him, the Tribunal found that the order of punishment was communicated to him in the year 2000 itself. The Tribunal, by the impugned order dated 19.11.2013, dismissed the O.A., holding that as the misconduct committed by the petitioner is grave in nature, the first respondent has rightly withheld the entire gratuity and 20% cut in pension. Moreover, the order of punishment and the impugned order were passed before the acquittal of the petitioner in criminal cases, as such, we do not see any infirmity in the impugned order passed by the Tribunal.

6. Further, we noticed that the petitioner, who is A.4 in C.C.No.185 of 2012 on the file of the learned I Additional Judicial Magistrate of First Class, Warangal, was acquitted in the said case. In the judgment dated 29.08.2018 passed in the said C.C., which is filed along with the material papers, the deposition of the Enquiry Officer-Patsa Soma Raju was extracted, which reads as under:

“The Enquiry Officer PW8/Patsa Soma Raju categorically admitted that, he stated incriminating material evidence against the accused A1 only and he did not state any incriminating material evidence against the accused A2, A4 to A6. So also, as per the proceedings issued by the District Collector, Warangal, dt:25.5.1996, there is finding of the Enquiry Officer is observed that the Wardens were not found involved in any misappropriation and he do not know, whether the diet charges enhanced from Rs.150/- for boarder to 170 boarder p.m., as per G.O.No.72 dt:25.4.1988. But, the Investigation Officers PW10 to PW14 failed to collect

the documents i.e., proceedings dt:25.5.1996 issued by the District Collector, Warangal as well as G.O.No.72, dt. 25.4.1988.”

7. In view of the facts and circumstances, and as the petitioner was acquitted in all the criminal cases, which were registered on the same set of allegations made in the Charge Memo, we are of the view that the petitioner can be permitted to make an application before the competent authority.

8. Accordingly, the writ petition is disposed of permitting the petitioner to make an application before the competent authority within a period of four weeks from today. On such application, the competent authority shall consider the same keeping in view the nature of the allegations made against the petitioner in the departmental enquiry as well as in the criminal proceedings, take a decision and communicate the same to the petitioner within a period of eight weeks from the date of receipt of the application

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

Date: 19.03.2019
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