

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

W.P.NOs.10660, 10661, 11167 & 11216 of 2021

COMMON ORDER (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

The Disciplinary Authority removed the petitioners from service, and the appellate authority also confirmed the same, and pending further revision before the competent authority, they filed applications before the Central Administrative Tribunal Hyderabad Bench in OA/021/1017/2015, 1018/2015, 1023/2015 and 1024/2015, challenging orders of removal. Subsequently, even the Revisional Authority confirmed the orders of removal. Therefore, petitioners filed miscellaneous petitions under Rule 12(6) of the Central Administrative Tribunal (Procedure) Rules, 1987 (for short 'Rules of 1987') seeking amendment to the prayer and also pleadings bringing challenge to the orders passed by the revisional authority.

The Tribunal, vide common order dated 19.03.2021, held that once the Revisional Authority passed orders, nothing survives for adjudication in the applications, since the orders of the Disciplinary Authority and the Appellate Authority merges with that of the order of the Revisional Authority in view of doctrine of merger and hence disposed of miscellaneous petitions seeking amendment, as well as main O.As., giving liberty to the applicants to file fresh O.As.

Challenging the common order dated 19.03.2021, the applicants before the Tribunal preferred the present writ petitions.

Learned counsel for the petitioners would submit that the impugned common order is bereft of reasons and he also submits that normally, pending the proceedings, if any subsequent events happen, the same should be taken into consideration and appropriate orders should be passed, but in this case, petitioners themselves have filed amendment applications for bringing challenge

to the orders passed by the revisional authority, but the Tribunal without considering the issue in proper perspective, disposed of not only miscellaneous petitions, but also the main O.As. giving liberty to file fresh O.As., He submits that no prejudice would be caused to the respondents, if amendment applications are allowed and it would avoid duplication of work.

On the other hand, the learned Standing Counsel for the respondents Smt. Pushpendra Kaur, submits that the Revisional Authority passed orders on 08.08.2015, counters in the present applications were filed in the year 2016, but the miscellaneous applications are filed on 2.11.2020, seeking amendment of the pleadings as well as prayer, to challenge to the order passed by the Revisional Authority, which is barred by limitation, and further, the petitioners also could not show that they are in diligent in prosecuting the applications, as required under Order 6, Rule 17 of the C.P.C. She submits that the provisions under Order 6, Rule 17 of C.P.C. apply to the applications filed under Rule 12(6) of the Rules of 1987. Therefore, she seeks to dismiss the writ petitions.

In this case after hearing both the counsel, we find that issues raised by the petitioners have not even been adverted to by the Tribunal. The issue pertains to dismissal of petitioners from service, which has civil consequences, and hence the Tribunal should have considered the rival contentions, and by applying the mind, should have passed a speaking order. Further, the Tribunal, not only disposed of miscellaneous applications, but also the main O.As. As such we find that the Tribunal has not decided the issue in proper perspective.

In view of the same, we are of the considered view that the impugned common order deserves to be set aside, and the matters be remanded to decide afresh.

For the foregoing reasons, the impugned common order is set aside, and the M.As., and the O.As. are restored to file, and the matters are remitted to the

Tribunal, and the Tribunal is directed consider the rival contentions and dispose of the same by passing a speaking order.

It is open to both the parties to raise all the contentions available under law.

The writ petitions are accordingly allowed to the extent indicated above.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DR. SHAMEEM AKTHER,J

DATE:27—04—2021

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