

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

HON'BLE SRI JUSTICE K. SARATH

W.P.Nos.3417, 3651, 3672 & 3727 of 2008

COMMON ORDER:*(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Since the issue involved in all these Writ Petitions is one and the same, they are being heard together and disposed of by this common order.

2. For the sake of convenience, the facts in W.P.No.3417 of 2008 are discussed hereunder.

3. W.P.No.3417 of 2008 is filed seeking a Writ of Certiorari calling for the records relating to the orders of the A.P. Administrative Tribunal, Hyderabad (for brevity 'the Tribunal') passed in O.A.No.10177 of 2002 dt.03-10-2007 by declaring them as being erroneous and illegal and quash the same.

4. Heard the learned Government Pleader for Services-II appearing for the petitioners and R.M. Tagore, learned counsel for the respondent.

5. It has been contended by the learned Government Pleader appearing for the petitioners that the respondent was employed as Superintendent in the Pay and Accounts Department and he was served with a charge memo due to some Social Welfare Scam has been taken place in disbursement of scholarship and thereafter, the State has initiated Criminal Case as well as disciplinary proceedings against the respondent and later he was dismissed from service vide G.O.Rt. No.2677 dt.18-10-2002. Earlier also, when the respondent was dismissed from service, he has approached the Tribunal and the Tribunal was pleased to direct the petitioners to conduct fresh enquiry as per Rule 20 of the A.P. Civil Services (C.C. & A) Rules, 1991 (for short 'the Rules, 1991').

6. Learned Government Pleader for petitioners has further contended that in the interregnum, the respondent was convicted by the competent Criminal Court in C.C.No.1 of 2003 vide judgment dt.11-06-2007 and based upon the conviction orders, the petitioners have once again issued orders of dismissal by invoking Rule 25 (2) of the Rules 1991. Aggrieved by the

said orders passed by the petitioners, the respondents once again approached the Tribunal and the Tribunal was pleased to set aside the orders of dismissal without appreciating the fact that the respondent is facing conviction. Aggrieved by the same, the petitioners have filed the present Writ Petition.

7. Learned Government Pleader for the petitioners had contended that the respondents in all the Writ Petitions have preferred Crl.A.Nos.703 of 2007 and batch and though the High Court was pleased to suspend the sentence, however, the conviction is still staring at the respondents and when only the sentence is suspended and conviction is still staring at the respondent, the Tribunal was not justified in allowing the O.As. Therefore, appropriate orders be passed by setting aside the impugned orders of the Tribunal impugned orders dt.03-10-2007 in O.A.No.10177 of 2002, dt.18-09-2007 in O.A.No.4689 of 2003, 23-08-2007 in O.A.No.5314 of 2003 and dt.23-07-2007 in O.A.No.4794 of 2003.

8. Learned counsel for the respondents had not denied about the fact that the respondents are facing conviction.

9. This Court having considered the submissions made by the parties is of the considered view that as long as the conviction is staring at the respondents, the Tribunal was not justified in setting aside the orders of the Tribunal. Therefore, the orders of the Tribunal are contrary to law.

10. Accordingly, all these Writ Petitions are allowed and all the impugned orders dt.03-10-2007 in O.A.No.10177 of 2002, dt.18-09-2007 in O.A.no.4689 of 2003, 23-08-2007 in O.A.No.5314 of 2003 and dt.23-07-2007 in O.A.No.4794 of 2003 are set aside. However, it is made clear that if the respondents are acquitted in the Criminal Appeals, they are entitled to pursue their remedies in accordance with law. No costs.

11. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

K. SARATH, J

Dt.05.09.2022
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