

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE PULLA KARTHIK

Writ Petition No.4119 of 2009

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

This Writ Petition is filed by the petitioners under Article-226 of the Constitution of India seeking a '*Writ of Certiorari*' by calling for records relating to the order passed by the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal'), Hyderabad in O.A.No.2209 of 2006, dated 09.01.2009 and to quash the same.

2. Heard Mrs. K. Rajya Lakshmi, learned counsel for petitioner and the learned Government Pleader for Services-I, appearing for respondents.

3. Learned counsel for the petitioner contended that he is a retired Assistant Treasury Officer and has approached the Tribunal seeking for notional promotion on par with his junior on the ground that the disciplinary authority has imposed a punishment of reversion to the post of Sub-Treasury Officer permanently, besides ordering reversion, recovered an

amount of Rs.25,125-05 ps. vide proceedings, dated 25.01.1993, on the alleged ground that the petitioner has misappropriated the Government funds and was also prosecuted in criminal case on the same set of allegations in C.C.No.203/86. Learned counsel for the petitioner had further contended that the Criminal Court has acquitted the petitioner in the criminal case vide judgment, dated 15.12.1993. Later, aggrieved by the orders of punishment imposed by the disciplinary authority, the petitioner has filed an appeal to the State Government on 17.07.1998 and the State Government was pleased to allow the appeal vide G.O.Rt.No.1202, dated 03.06.1997 and was pleased to set aside the orders of punishment of reversion as imposed by the disciplinary authority with all consequential benefits and suspension period was also treated as 'spent on duty'.

4. Learned counsel for the petitioner had further contended that in pursuance to the said orders passed by the State Government in G.O.Rt.No.1202, dated 03.06.1997, the case of the petitioner was considered

for notional promotion for “Assistant Treasury Officer” for the panel year 1998-1999. Thereafter, the petitioner has retired from service on 30.09.2000 and the grievance of the petitioner was that the case of the petitioner was considered for notional promotion to the post of Assistant Treasury Officer for the panel year 1998-1999 and was not considered for promotion to the post of Accounts Officer/ District Treasury Officer on par with his junior. The petitioner has submitted a detailed representation to the State Government to consider his case for notional promotion to the post of Accounts Officer/District Treasury Officer as it was done in the cadre of Assistant Treasury Officer. But the State Government has rejected his case vide memo, dated 23.03.2006 on the ground the G.O.Rt.No.1202, dated 03.06.1997 was issued without referring to disciplinary proceedings and the allegations levelled against the petitioner which were held to be proved in disciplinary enquiry and no further benefits were granted to the petitioner. Aggrieved by the same, the petitioner has approached the Tribunal by filing

O.A.No.2209 of 2006 and the Tribunal vide orders dated 09.01.2009 was pleased to dismiss the O.A without appreciating any of the contentions raised by the petitioner. Therefore, appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for notional promotion to the post of Accounts Officer/District Treasury Officer as the punishment was set aside by the State Government vide G.O.Rt.No.1202, dated 03.06.1997 with all consequential benefits.

5. On the other hand, learned Government Pleader for Services-I appearing for the respondents contended that the State Government is not the appellate authority and the disciplinary authority has imposed a punishment orders, dated 25.01.1993. Thereafter, no appeal was preferred by the petitioner and the petitioner has submitted an appeal that too after 5 years to the State Government on 17.07.1998 and the State Government without examining the Enquiry Officer's report and disciplinary proceedings has merely set aside the punishment imposed on the

petitioner on the ground that the petitioner was acquitted in criminal case. The State Government have rightly rejected his case for granting further relief to the petitioner vide memo, dated 23.03.2006. As admittedly, the petitioner was involved in misappropriation of Government funds and the same was established in the disciplinary enquiry and the State Government has set aside the punishment only on the ground that he was acquitted in criminal charge. Therefore, the State Government has once again reconsidered the entire punishment and was pleased to reject his case by delayed orders vide memo, dated 23.03.2006 and the Tribunal was justified in dismissing the O.A.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the disciplinary authority has imposed a punishment of reversion to the post of Sub-Treasury Officer vide proceedings, dated 25.01.1993 after the charge was held to be proved in disciplinary enquiry and the State Government has set aside the said

punishment only on the ground that the petitioner was acquitted in a criminal case vide G.O.Rt.No.1202, dated 03.06.1997. The State Government has not examined the case of the petitioner in detail as to how the punishment orders can be set aside. More so, when the charge levelled against the petitioner was held to be proved in disciplinary enquiry, no doubt, by virtue of G.O.Rt.No.1202, dated 03.06.1997 the petitioner's case was considered for notional promotion to the post of Assistant Treasury Officer, but the Government reminds the allegations against the petitioner was held to be proved in the disciplinary enquiry. When the same was not set aside by any appellate authority, the petitioner cannot seek notional promotion to the post of Accounts Officer/ District Treasury Officer as a matter of right. Moreover, the petitioner has retired on 30.09.2000 and the petitioner was pursuing his case even after retirement. When such enquiry officer's report is not set aside by any authority, the relief sought by the petitioner cannot be granted as a matter of right and the Tribunal was

justified in dismissing the O.A. This Court is not inclined to interfere with the orders passed by the Tribunal.

7. With these observations, the Writ Petition is dismissed. No costs.

8. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

PULLA KARTHIK , J

Date: 19.01.2023
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