

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**MONDAY, THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND**

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

WRIT PETITION NO: 41118 OF 2014

Between:

P.Somaraju, S/o.Krishna Murthy, aged 60 years, Retired District Social Welfare Officer, Medak at Sangareddy, R/o.H.No.9-2-26, Teacher's Colony, Paloncha, Khammam District.

...PETITIONER

AND

1. Government of Andhra Pradesh, represented by its Principal Secretary, Social welfare Department, Secretariat, Hyderabad-500 022.
2. The Commissioner of Social Welfare A.P.Hyderabad.
3. The State of Telangana, represented by its Secretary, Social Welfare Department, Secretariat, Hyderabad.
4. The Commissioner of Social Welfare, State of Telangana, Hyderabad.
5. The A.P.Administrative Tribunal, represented by its Registrar, Purani Haveti, Hyderabad.

...RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ order or direction more in the nature of writ of certiorari calling for the order of the Hon'ble A.P.Administrative Tribunal dated 2.9.2014 in O.A.No.2841 of 2011 and impugned G.O.Rt.No.323 dated 23-4-2011 imposing the punishment of compulsory retirement and quash the same by holding them as illegal, and arbitrary.

I.A.NO:1 OF 2014(WPMP. NO: 51494 OF 2014)

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned G.O.Rt.No.323 dated 23-4-2011 pending disposal of the above the writ petition.

Counsel for the Petitioner : SRI.J.R.MANO HAR RAO

Counsel for the Respondent Nos.1 to 4 : GP FOR SOCIAL WELFARE

Counsel for the Respondent No.5 : ---

The Court made the following ORDER

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

THE HONOURABLE SRI JUSTICE PULLA KARTHIK

Writ Petition No.41118 of 2014

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

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India seeking a *Writ of Certiorari* by calling for the records pertaining to the order dated 02.09.2014 passed in O.A.No.2841 of 2022 by the Andhra Pradesh Administrative Tribunal, Hyderabad (**for short, 'the Tribunal'**) as well as G.O.Rt.No.323, dated 23.04.2011, imposing punishment of compulsory retirement, and to quash the same by holding them as illegal and arbitrary.

2. Heard Mr. J.R. Manohar Rao, learned counsel for the petitioner and the learned Government Pleader for Services-II, for respondent Nos.1 to 4.

3. Learned counsel for the petitioner contended that petitioner was working as 'District Social Welfare Officer' with respondent Nos.1 to 4; during the course of employment, while the petitioner was working as Assistant Director (Legal Cell) in

the office of Commissioner of Social Welfare, Hyderabad, it has been alleged by the Disciplinary Authority that petitioner has circulated a file bearing No.G1/837/1994 dated 15.07.1995 recommending not to agree with the District Collector, Visakhapatnam in his letter dated 19.06.1995 for release of rupees one crore subject to condition to keep the said amount in the Court deposit till Special Leave Petition (arising out of O.P.No.21 of 1987, Pisinikada Land Acquisition case) is disposed of; it was also further alleged by the Disciplinary Authority that petitioner had recommended for release of rupees one crore, causing loss to the exchequer.

4. Learned counsel for the petitioner further contended that disciplinary proceedings were initiated against several officers and an Inquiring Authority was appointed by the Commissioner of Inquiries; the Inquiring Authority, after conducting a detailed inquiry, submitted a report holding ~~that~~ the charges levelled against the petitioner as "proved"; basing upon the report of the Inquiring Authority, the State imposed a major punishment of "removal from service" vide G.O.Ms.No.44, dated 23.06.2007; aggrieved thereby, petitioner approached the Tribunal by filing O.A.No.3647 of 2007; vide order dated 06.11.2007, the Tribunal was pleased to allow the O.A. by setting aside the orders of

removal, but however, directed the respondents to impose a major penalty of stoppage of two increments with cumulative effect; challenging the said order, the respondents approached this Court by filing Writ Petition No.18640 of 2008; when no interlocutory orders were granted by this Court in the said writ petition, the respondents approached the Hon'ble Apex Court by filing Special Leave Petition against non-granting of interlocutory orders in Writ Petition No.18640 of 2008; vide order dated 21.11.2008, the Hon'ble Apex Court was pleased to dispose of the Special Leave Petition by giving a direction to the High Court to dispose of the writ petition within three (03) months; consequent upon such direction by the Hon'ble Apex Court, vide order dated 02.03.2009, a Division Bench of this Court was pleased to partly allow the Writ Petition No.18640 of 2008 by setting aside that portion of the order of the Tribunal wherein it directed the respondents to impose a major penalty of stoppage of two increments with cumulative effect, and remanded the matter back to the Disciplinary Authority to consider the matter afresh within a period of six (06) weeks from the date of receipt of a copy of the order.

5. Learned counsel for the petitioner further contended that consequent upon remanding of the matter by the Division

Bench to the Disciplinary Authority, the Disciplinary Authority had once again referred the case of the petitioner to the Vigilance Commissioner; subsequently, the Vigilance Commissioner recommended punishment of "compulsory retirement" on the petitioner; and basing on the recommendations of the Vigilance Commissioner, the State imposed the punishment of "compulsory retirement" vide G.O.Rt.No.323, dated 23.04.2011.

6. Learned counsel for the petitioner further contended that, as is evident from the above factual matrix, the State has not examined the case of petitioner independently and directly acted upon the recommendations of the Vigilance Commissioner to impose the said punishment of compulsory retirement on the petitioner vide G.O.Rt.No.323, dated 23.04.2011; aggrieved thereby, the petitioner approached the Tribunal by filing O.A.No.2841 of 2011 (out of which present Writ Petition arises); vide order dated 02.09.2014, the Tribunal was pleased to dismiss the O.A. without appreciating any of the contentions raised by the petitioner; and aggrieved thereby, the present Writ Petition came to be filed by the petitioner.

7. Learned counsel for the petitioner contended that the Inquiry Officer had mechanically held the charges as "proved" without appreciating the fact that it is not the petitioner who recommended for release of rupees one crore in terms of the order passed by the Court below, and this fact was not properly appreciated by the Tribunal; the Tribunal had mechanically dismissed the above O.A.; and therefore, prayed this Court to pass appropriate orders in the Writ Petition by setting aside the orders of compulsory retirement imposed on the petitioner vide G.O.Rt.No.323, dated 23.04.2011, and also to direct the respondents to release all pensionary benefits to the petitioner by treating him to have retired from service on attaining the age of superannuation instead of "compulsory retirement", and allow the Writ Petition.

8. On the other hand, learned Government Pleader for Services-II, appearing for respondent Nos.1 to 4, contended that consequent upon remanding the matter by the Division Bench of this Court to the Disciplinary Authority, vide order dated 02.03.2009 passed in Writ Petition No.18640 of 2008, the same was re-examined by the Disciplinary Authority; thereafter, the Vigilance Commissioner recommended punishment of "compulsory retirement" on the petitioner; therefore, the State

had rightly imposed punishment of "compulsory retirement" vide impugned G.O.Rt.No.323, dated 23.04.2011, basing on the recommendations of the Vigilance Commissioner; therefore, the Tribunal was justified in dismissing the O.A.; moreover, the punishment of 'compulsory retirement' was imposed on the petitioner when he was aged about fifty-seven (57) years, by which time the petitioner had completed maximum number of years of service, and therefore, no prejudice would be caused to the petitioner even if the punishment of 'compulsory retirement' is imposed on the petitioner as admittedly he would be entitled to full pension; and therefore, there are no merits in the Writ Petition and the same is liable to be dismissed.

9. This Court, having considered the rival submissions made by the parties, is of the considered view that the State had imposed the punishment of 'compulsory retirement' vide G.O.Rt.No.323, dated 23.04.2011, for the proven misconduct in the enquiry by taking a lenient view so as to enable the petitioner to draw pensionary benefits. Therefore, when the State had imposed the punishment of 'compulsory retirement' for the proven misconduct in the enquiry, this Court is not inclined to interfere with the order passed by the Tribunal in O.A.No.2841 of 2011, dated 02.09.2014, as the Tribunal was

justified in rightly dismissing the O.A. Therefore, the Writ Petition is liable to be dismissed. Accordingly, the same is dismissed. No costs.

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

SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. Two CCs to GP FOR SOCIAL WELFARE, High Court for the State of Telangana at Hyderabad. [OUT]
2. One CC to SRI.J.R.MANO HAR RAO, Advocate [OPUC]
3. Two CD Copies

SA
GJP

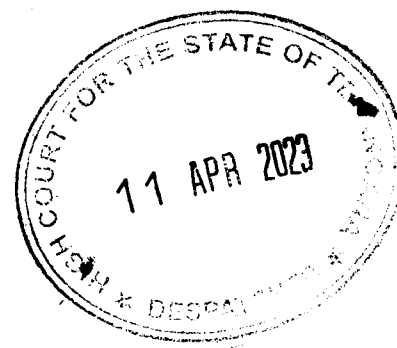
[Handwritten signature]

HIGH COURT

DATED:20/02/2023

ORDER

WP.No.41118 of 2014



**DISMISSING THE W.P
WITHOUT COSTS.**

BS
6 MW
21/5/23