

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

HON'BLE SRI JUSTICE PULLA KARTHIK

W.P.No.33551 OF 2010

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

Aggrieved by the order dated 06.11.2006 passed in O.A.No.477 of 2004 by the Andhra Pradesh Administrative Tribunal, Hyderabad, the present writ petition has been filed.

2. Heard learned Government Pleader for Services-I appearing for the petitioner and learned counsel appearing for the 1st respondent.

3. It is the case of the petitioner that the 1st respondent is a retired Deputy Director and while he was in service, alleging certain irregularities, the disciplinary proceedings were initiated against the 1st respondent. Even after his retirement, the disciplinary proceedings were continued in terms of Rule 9 of A.P. Revised Pension Rules and for the proven misconduct in the enquiry, the petitioner has imposed the punishment of 3% cut in pension *vide* G.O.Rt.No.25, dated 07.01.2003. Aggrieved by the same, the respondent has approached the Tribunal by

filing O.A.No.477 of 2004. Without appreciating any of the contentions raised by the petitioner, the Tribunal has allowed the said O.A in favour of the 1st respondent on the ground that earlier the Tribunal has allowed identical case i.e., O.A.No.10940 of 2002, *vide* order dated 13.09.2006, and following the same, the Tribunal has mechanically allowed the case preferred by the 1st respondent.

4. Learned counsel appearing for the petitioner had contended that appropriate orders be passed in the writ petition by setting aside the order passed by the Tribunal.

5. Learned counsel appearing for the 1st respondent had contended that two other officers were also imposed the same punishment of 3% & 4% cut in pension and one of the employees has approached the Tribunal by filing O.A.No.10940 of 2002 and the Tribunal has allowed the said OA *vide* order dated 13.09.2006 and by following the same, the Tribunal has allowed the OA filed by the 1st respondent. Therefore, the Tribunal was justified in allowing the OA in favour of the 1st

respondent. There are no merits in the writ petition and the same is liable to be dismissed.

6. Having considered the rival submissions made by the leaned counsel on either side, this Court is of the view that the Tribunal was justified in allowing the OA in favour of the 1st respondent with the following observations.

“This Tribunal delivered its orders in O.A.No.10940/2002 on 13.09.2006, holding that the show cause notice, issued in respect of the applicant therein, was totally misconceived and the final orders issued in G.O.Rt.No.1297, dated 05.12.2001 referred in the said O.A were issued without proper consideration of the relevant aspects raised by the applicant therein.

In these circumstances, the case of the applicant herein is exactly identical to the said case of the applicant in O.A.No.10940 of 2002. The orders of this Tribunal in the said O.A. except the name of the applicant, the period during which the applicant was involved in the alleged irregularities took place, apply mutatis mutandis to this O.A. Hence, this OA is allowed and the impugned G.O.Rt.No.25, HM & FW (VC1(1) Department, dated 7.1.2003 is set aside.”

7. The Tribunal came to the conclusion that the 1st respondent is also similarly situated person to that of the applicant in O.A.No.10940 of 2002, and except change in the

name, rest of the facts were identical and allowed the OA in favour of the 1st respondent. Moreover, against the order passed in the said O.A.No.10940 of 2002, a writ petition was filed and the same was also dismissed. Hence, the question of entertaining the present writ petition against the order passed by the Tribunal in O.A.No.477 of 2004, which was passed following the order passed in O.A.No.10940 of 2002, does not arise.

8. Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE PULLA KARTHIK

Date: 20-01-2023

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