

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY  
AND  
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

Writ Petition No.24839 of 2017

DATED:31-07-2017

Between:

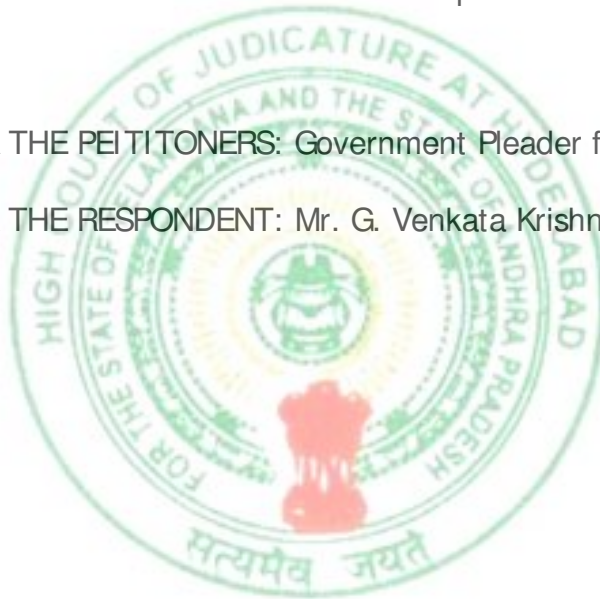
The Divisional Forest Officer  
Wildlife Division  
Nandyal, Kurnook District  
and another ... Petitioners

And

K. Ramanjaneyulu ... Respondent

COUNSEL FOR THE PETITIONERS: Government Pleader for Services (AP)

COUNSEL FOR THE RESPONDENT: Mr. G. Venkata Krishnaiah



THE COURT MADE THE FOLLOWING:

ORDER: (per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This writ petition is filed by the State of Andhra Pradesh and the Divisional Forest Officer, Wildlife Division, Nandyal, Kurnool District, feeling aggrieved by closing of O.A. No.6289 of 2012 by the Andhra Pradesh Administrative Tribunal.

2. This case has a chequered career. Following a departmental enquiry, the respondent – Forest Section Officer suffered an order of recovery of certain amounts for negligence in his duties and also stocking 17000 Nos. of bamboos unauthorisedly in the depot premises etc. Questioning the said recovery order, the respondent filed an appeal before the Conservator of Forests, Kurnool. Pending the appeal, the respondent filed O.A.No.6289 of 2012 assailing the recovery order. On 09.8.2012 the Tribunal has passed an interim order staying the recovery. The appeal filed by the respondent was disposed of on 18.09.2014 by the Conservator of Forests whereunder a penalty of reduction in rank was imposed on the petitioner. This order was assailed in O.A. No.5801 of 2014. The said O.A. was allowed by the Tribunal by order dt.9.10.2015. Meanwhile, the Tribunal has closed O.A. No.6289 of 2012 by observing that as the order of the appellate authority was questioned in O.A. No.5801 of 2014, all the issues will be decided in the said O.A. The order in O.A. No.5801 of 2014 was questioned by the petitioners in W.P. No.39728 of 2016. This writ petition was allowed by a Division Bench of this Court by order dt.16.11.2016 by holding that under the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 and also the Central as well as the State Fundamental Rules, there can be no order for permanent reduction in rank. However, the petitioners were left free to pass a fresh order after giving an opportunity to the respondent. Following the said

order, the appellate authority has passed a fresh order on 12.07.2017 whereby the respondent was reduced from the present cadre of the Forest Section Officer to the cadre of Junior Assistant of Andhra Pradesh Ministerial Services for a period of three years. After disposal of the said appeal, the petitioners filed the present writ petition questioning the order passed as far back as 09.02.2015 closing O.A. No.6289 of 2012.

3 The learned Government Pleader for Services (AP) argued with conviction that as the petitioners are entitled to impose penalty as well as order recovery, the respondent having filed O.A. No.6289 of 2012 questioning the recovery part and obtained an interim order, the Tribunal has committed an error in allowing the respondent to get away with the order to the extent of recovery by closing O.A. No.6289 of 2012.

4. Opposing the above submissions, the learned counsel for the respondent submitted that in view of the subsequent event of the appellate authority passing an order on 18.9.2014 substituting the order of recovery with that of imposition of penalty, O.A.No.6289 of 2012 was rendered infructuous as the recovery order got merged in the appellate order.

5. We find merit in this submission of the learned counsel for the respondent. The disciplinary authority by its order dt.12.07.2011 has not imposed any penalty except ordering recovery of certain amount. It is only the appellate authority which has modified the said order by imposing penalty of reduction in rank. While passing such order, the appellate authority has not dealt with the aspect of recovery at all. Therefore, in the absence of the appellate authority dealing with this aspect separately, it is deemed that the order of recovery has got merged in the appellate order dt.18.09.2014 which of course was subsequently set aside by the

Tribunal and confirmed by this Court resulting in fresh order being passed on 12.7.2017 by the appellate authority. In the aforementioned facts of the case, we are entirely in agreement with the learned counsel for the respondent that the cause in O.A. No.6289 of 2012 ceased to exist and it was wholly unnecessary for the Tribunal to decide the said O.A. on merits.

6. For the aforementioned reasons, the writ petition fails and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.30785 of 2017 filed by the petitioners for interim relief shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

GUDI SEVA SHYAM PRASAD, J

31-7-2017

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