

THE HON'BLE SRI JUSTICE G.NARENDAR

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THE HON'BLE SRI JUSTICE N.VIJAY

WRIT APPEAL No.933 of 2023

ORDER: (*per Hon'ble Sri Justice G.Narendar*)

1. Sri Jupudi V.K.Yagna Dutt, representing Deputy Solicitor General of India appearing on behalf of the appellant/respondent no.2 and Sri Posani Venkateswarlu, learned senior counsel appearing on behalf of respondents.

2. This intra Court Appeal arises out of the order of the learned Single Judge dated 12.5.2023 rendered in W.P.No.18448 of 2022 whereby the learned single Judge was pleased to allow the Writ Petition and thereby declared the act of the appellant herein, placing the respondent herein, under suspension, as illegal and arbitrary and was pleased to set aside the same. Further the appellant was directed to reinstate the respondent herein and directed to pay 100% subsistence allowance for the period of suspension.

3. It is not in dispute that the respondent herein has not rendered any work during the period of suspension. On the other hand it is also not in dispute that the suspension was on account of a complaint. Despite the passage of six years, not

even a charge sheet is filed in the same. The authorities having placed the respondent/officer under suspension, ought to have reinstated the respondent after taking note of the progress in the criminal case registered against the respondent herein. The learned single Judge has mainly placed reliance on the ruling rendering by the Hon'ble Apex Court in ***Ajay Kumar Choudhary vs. Union of India and Another***¹. Despite the law laid down by the Hon'ble Apex Court as noted supra, the appellant has miserably failed in adhering to the law as enunciated by the Hon'ble Apex Court. It is not in dispute that the respondent has also made a representation seeking for revocation of the suspension, but the same went in vain.

4. After hearing the parties, the Bench in order to give an opportunity, suggested that the order of the learned Single Judge may be modified by reviewing and reducing the subsistence allowance from 100% to 75%, for which both counsels have consented to the same.

5. In that view of the matter we are of the considered opinion that the Writ Appeal be disposed by modifying the order in Writ Petition at paragraph no.21 (iv) of the impugned order.

¹ (2015) SCC 291

6. Accordingly, it is directed to pay 75% of the subsistence amount due including arrears instead of 100% of the subsistence allowance including arrears, as ordered by the learned single Judge.

7. With the above direction, the writ appeal stands disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, shall stand closed.

JUSTICE G.NARENDAR

JUSTICE N.VIJAY

06.11.2023
RD

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Dated: 06.11.2023

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