

(1958) 10 AP CK 0020
In the Andhra Pradesh High Court
Case No : Writ Petition No. 437 of 1955

Konakalla Pentayya

APPELLANT

Vs

Commissioner, Masulipatnam Municipality

RESPONDENT

Date of Decision : 30-10-1958

Acts Referred:

Citation : (1959) 1 LLJ 364

Hon'ble Judges : P. Chandra Reddi, C.J

Bench : Single Bench

Final Decision : Dismissed

Judgement

C.J.

1. This is a petition for the issue of a writ of mandamus directing the respondent to restore the petitioner to his office, etc.

2. The petitioner was entertained as a peon in the office of the municipality of Masulipatnam. Later on, he was promoted as an encroachment inspector. In that capacity, he collected large sums of money from the people of Masulipatnam by way of licence fees and misappropriated the same without remitting them into the office. When these complaints reached the Commissioner of the municipality, he started an enquiry and, pending that, the petitioner was suspended on 14 October 1953 for a period of two months. Shortly thereafter a complaint was lodged against the petitioner in the concerned police station. Simultaneously charges were also framed by the Commissioner against the petitioner and he was called upon to submit his explanation. The criminal case ended in the discharge of the petitioner. Shortly thereafter the petitioner was required to submit his explanation to the charges framed against him. His answer was that he could not be called upon to submit an explanation when he was not found guilty in this criminal case and that he should be paid all the salaries due to him. He was informed by the proceedings dated 2 May 1955 that the departmental action was independent of the police action, that he should send his explanation within

seven days and that if no explanation was received the charges would be disposed of on merits. The only response that was evoked from the petitioner was his demand that he must be reinstated in office before he could be called upon to submit his explanation. He was lastly told by the municipal office notice dated 18 May 1955 that the charges would be enquired into on 25 May 1955. As this notice could not be served on the petitioner, 1 June 1955 was fixed for the enquiry and another notice was sent to him but he refused to accept it. As it was felt that no useful purpose would be served by giving him a further notice and he was not willing to face an enquiry, the enquiry was taken up on 4 June 1955. A statement was recorded from the town-planning supervisor on the charges framed against the petitioner. After an elaborate enquiry, it was found that all the charges were proved and the petitioner was dismissed on 4 June 1955. Thereupon, the petitioner has filed this writ petition. It is worthy of note that the petitioner does not seek to have the order of dismissal quashed. The only relief asked for by him is his reinstatement; In support of this petition, it is urged that the order of suspension beyond six months is illegal in that it contravenes rule 6 of the Appointment and Punishment Rules framed under the District Municipalities Act, 1920. It provides that the executive authority of a municipal council could suspend any officer or servant for a period not exceeding three months and that, in exceptional cases, where the enquiry could not be completed within the period of suspension, it could be continued for a further period not exceeding three months with the previous sanction of the appropriate appellate authority referred to in sub-rule (1) of rule 8. Obviously, the petitioner's suspension extended over a period of eighteen months. Therefore, there is some substance in the contention of the petitioner. However, that does not help him to get him reinstated, as he has already been dismissed. As we have already stated, the order of dismissal is not impugned before us. It follows that his request for reinstatement cannot be granted.

3. Another submission made by Sri Vishnu Rao is that, in any event, the respondent should be directed to pay the petitioner his salaries, allowances, etc., for the period of suspension in excess of six months. We cannot grant him this relief also, as this request is based upon a consequential order of his reinstatement and not in regard to the period of suspension which was invalidly extended. That apart, it is very doubtful whether in exercise of the powers under Art. 226 of the Constitution, this Court could direct payment of moneys due to a petitioner. The petition, is, therefore, dismissed. In the circumstances of the case, we make no order as to costs. It is, however, open to the petitioner to pursue such remedies as might be open to him.