

THE HON'BLE SRI JUSTICE K.C. BHANU
AND
THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.74 OF 2014

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ORDER: (per Hon'ble Sri Justice K.C.Bhanu)

This Writ Petition, under Article 226 of the Constitution of India, is filed to call for the records relating to the order, dated 13.12.2012, in Original Application No.8890 of 2010 and the order, dated 18.09.2013, in Review M.A.No.135 of 2013 in the said Original Application passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, 'the Tribunal') and quash the same.

2. Respondent No.1/applicant filed the aforesaid Original Application to set aside the proceedings in R.No.2246/V3/2004, dated 26.11.2010, issued by petitioner No.1 herein. The Tribunal, upon considering the material on record, allowed the Original Application by setting aside the impugned proceedings, dated 26.11.2010. Challenging the same, Government filed by the present Writ Petition.

3. This Court, while admitting the Writ Petition, granted interim suspension on 03.01.2014 in W.P.M.P.No.85 of 2014. Respondent No.1/applicant filed W.V.M.P.No.1975 of 2014 to vacate the interim suspension. At request of both the counsel, hearing of the Writ Petition is being taken up.

4. Impugned proceedings, dated 26.11.2010, were issued imposing punishment of withholding of two increments with cumulative effect. That proceedings were set aside by the Tribunal on the ground that in spite of the opportunity given by the Tribunal, the petitioners herein did not file counter in the Original Application.

5. The Tribunal ought not to have allowed the Original

Application on the ground that the petitioners did not file counter in the Original Application. When a major punishment of stoppage of two increments with cumulative effect was imposed on respondent No.1, the Tribunal ought to have seen whether it is a case of evidence or no evidence. For that purpose, the Tribunal has to necessarily look into the findings recorded by the Enquiry Officer, the evidence of witnesses examined, the documents marked and whether proper procedure was followed in conducting the enquiry. These aspects have not at all been considered by the Tribunal in passing the impugned order. Therefore, on this ground alone, the impugned order is liable to be set aside.

6. Accordingly, the Writ Petition is allowed setting aside the order, dated 13.12.2012, in Original Application No.8890 of 2010 and the order, dated 18.09.2013, in Review M.A.No.135 of 2013 in the said Original Application passed by the Tribunal and the matter is remanded to the Tribunal for fresh disposal. Liberty is given to the petitioners herein to file counter in the Original Application within four (4) weeks from the date of receipt of a copy of this order and we request the Tribunal to dispose of the Original Application within a period of four (4) weeks thereafter. However, it is made clear that the petitioners shall not make any request for grant of time for filing counter in the Original Application before the Tribunal. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C. BHANU

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JUSTICE ANIS

JUNE 25, 2015

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THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.74 OF 2014

DATE: 25.06.2015

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