

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

WRIT PETITION Nos.1787, 1818 and 1838 of 2015

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COMMON ORDER: (Per RR,J)

In these three writ petitions, the orders of the Andhra Pradesh Appellate Tribunal, Hyderabad (for short 'the Tribunal') in O.A.No.351 of 2014 and batch dated 12.03.2014 (W.P.Nos.1787 and 1818 of 2014) and in O.A.No.4070 of 2014 dated 11.09.2014 (W.P.No.1838 of 2014) are under challenge.

The Tribunal held that the penalty imposed on the respondents/applicants, by the Government memo dated 29.12.2009, was illegal; and the consequential orders passed thereafter were not sustainable in law. The Government memo dated 29.12.2009, to the extent it related to the respondents/applicants, the proceedings dated 19.01.2010 of the Commissioner and Director of School Education, Hyderabad, the proceedings of the Regional Joint Director of School Education, Warrangal, dated 02.02.2010 and the consequential proceedings of the District Educational Officers concerned dated 04.06.2010 were set aside.

Facts, in brief, are that the respondents/applicants were issued charge memos alleging that they had sanctioned irregular notional increments to SC/ST Special Teachers, in violation of the Government orders, causing heavy financial loss to the Government. After disciplinary proceedings were initiated against them, the enquiry officer held the respondents/applicants guilty of misconduct. On the ground that the amounts paid earlier had been

recovered, and as further action against the former DEO was dropped, the enquiry officer recommended that they be let off with a warning. Though the Regional Joint Director of School Education was the competent authority, and he was required to independently examine the nature and extent of punishment to be imposed, the Government, by its proceedings dated 29.02.2009, directed imposition of punishment of stoppage of five increments with cumulative effect.

Learned Government Pleader for Services (TS), appearing on behalf of the petitioners, would fairly state that the Regional Joint Director ought to have passed the order of punishment without being influenced by the directions of the Government. He would, however, contend that the Tribunal had erred in setting aside the order in its entirety on the ground that disciplinary proceedings against the former DEO has been dropped; and the questions whether the respondents/applicants were similarly placed to the former DEO, and whether disciplinary action being dropped against him would necessitate the respondents/applicants also being let off, are matters for the disciplinary authority - the Regional Joint Director of School Education to consider, and not for the Tribunal to decide.

We see no reason to interfere with the order of the Tribunal setting aside the order of the Government directing imposition of stoppage of five increments with cumulative effect, as the competent authority to impose such punishment was the Regional Joint Director, and not the Government. The respondents/applicants have since retired from service in the years 2011 and 2012, and these five increments have been withheld even thereafter. As any action, which can be taken under

the Revised Pension Rules, is only by the Government, and as the respondents/applicants retired from service in 2011 and 2012, they are entitled to be paid the five increments which were hitherto withheld by the Government. The said amount shall be paid to the respondents/applicants within two months from the date of receipt of a copy of this order. It is made clear that this order shall not preclude the Government, from taking action against the respondents/applicants, in accordance with the Revised Pension Rules.

These Writ Petitions stand disposed of accordingly. There shall be no order as to costs. The miscellaneous petitions, pending if any, shall stand closed.

RAMESH RANGANATHAN,J

M.SATYANARAYANA MURTHY,J

16th February, 2015

Note: Issue C.C. in one week.

(B/o)

GHN