

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**THURSDAY, THE TWELFTH DAY OF NOVEMBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.36674 of 2015

Between:

Ms. B.V. Rajeshwari,
D/o. B.V. RAdhakrishna Murthy,
Aged about: 45 years, Occ: Lecturer,
R/o. Village Karanam, Nandigama,
District Krishna, PIN. 521 185 (AP).

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Higher Education, TS Secretariat,
Hyderabad & 2 others

.. Respondents

The Court made the following:

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ORDER:

The petitioner is a Senior Assistant Professor in Chemistry in the 3rd respondent College. Disciplinary proceedings were initiated against the petitioner on the allegation of insubordination. Detailed procedure is followed, Enquiry Officer was appointed and enquiry was conducted. However, by order, dated 05.10.2015, the petitioner's services are terminated by giving pay in lieu of notice of three months. This order of termination is under challenge.

2. Heard the learned counsel for the petitioner, the learned Government Pleader for High Education for the 1st respondent, Sri V. Ramachander Goud, learned counsel for the 2nd respondent and Sri Abhinandan Kumar Shavili, learned counsel for the 3rd respondent. With the consent of all the learned counsel, the writ petition is disposed of at the admission stage.

3. It is specifically contended that the order of termination though on the face of it appears as innocuous but is not simple termination, but is a stigmatic order. The order is preceded by detailed procedure to take disciplinary action and having followed detailed procedure and having called for explanation, without considering the explanation, this order could not have been passed. Learned counsel, therefore, submits that the order of termination is *ex facie* illegal and liable to be set aside.

4. Learned counsel appearing for the 3rd respondent submits that since detailed procedure is followed and due opportunity was given to the petitioner and after complying with the norms of taking disciplinary action, the impugned order is passed and, therefore, there is no illegality in the order passed.

5. It is no doubt true that the procedure which is required to take disciplinary action against an employee of the 3rd respondent College is followed. However, the order impugned in the writ petition does not appear on the face of it as taken as a consequence to the disciplinary action already initiated. It is intended as termination simplicitor. It reads since the services of the petitioner are no more required, his services are dispensed with by giving pay for three months in advance. The history of the case would disclose that this order of termination cannot be treated as termination simplicitor. Instead of passing a detailed order after considering the report of the Enquiry Officer and the explanation filed by the petitioner, summary procedure is adopted at the final stage of the disciplinary action by resorting to termination simplicitor. Thus, the order on the face of it looks as if it is termination simplicitor, but in the background of the case, it is not simple termination but is stigmatic, which fact is not disputed by the learned counsel for the 3rd respondent. On this ground, the impugned order has to be set aside.

6. At this stage, learned counsel for the 3rd respondent fairly submits that since the disciplinary proceedings are already initiated, now liberty be

granted to the 3rd respondent to take further course of action, as warranted by law, as a consequence to initiation of disciplinary proceedings.

7. Having regard to the same, the impugned order, dated 05.10.2015, is set aside and the Writ Petition is allowed. Matter reverts back to the stage of passing orders by disciplinary authority after the enquiry and on considering the explanation of petitioner. Liberty is granted to the 3rd respondent to take further course of action, as warranted by law, as a consequence to initiation of disciplinary proceedings. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

P.NAVEEN RAO, J

Date: 12th November, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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Date: 12th November, 2015

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