

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

WRIT PETITION No.40435 of 2014

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ORDER: (Per RR,J)

The order under challenge in this writ petition is the order of the Andhra Pradesh Appellate Tribunal, Hyderabad (for short 'the Tribunal') in O.A.No.9072 of 2013, dated 31.10.2014.

The first respondent invoked the jurisdiction of the Tribunal questioning the legality of the proceedings dated 03.08.2013 issued by the third petitioner removing her from services as Attender.

The facts, as noted by the Tribunal in the order under challenge, are that the first respondent, a member of Scheduled Caste, was appointed as Attender in the limited recruitment conducted for Scheduled Caste/Scheduled Tribe candidates vide proceedings dated 31.12.2001, and was posted to the Government Junior College, Maredumilli. She was thereafter transferred to the Government Junior College, Pithapuram. While she was working thereat, the third petitioner issued a charge memo dated 22.12.2008 alleging that the first respondent secured employment by producing false 7th class certificate at the time of appointment. The first respondent filed her reply thereto denying the allegations. An enquiry officer was appointed and a report was submitted holding that the charge levelled against the first respondent was proved. The enquiry officer relied on the report of the District Educational Officer (DEO) and also the Head Master of the School concerned for arriving at the conclusion that the 7th

class certificate produced by the first respondent was false. Based on the said report, the order dated 03.08.2013 was passed by the third petitioner removing the first respondent from service. Aggrieved thereby, the first respondent invoked the jurisdiction of the Tribunal.

In the order under challenge, the Tribunal held that when the first respondent had submitted a representation to the authorities to regularize her services, a report was called from the DEO with regard to the genuineness of her 7th class certificate which was of the year 1982; the DEO, in turn, had requested the Headmaster of S.K.S.V.N.C.R.T. Zilla Parishad High School, Chandramampalli to verify and submit a report; a report was submitted stating that the records in the school were available only from 1985-86 onwards; in so far as the records relating to 7th class certificate of the first respondent were concerned, they were not available for verification; the Headmaster of the school, who was said to have issued the 7th class certificate was also no more; the signature of the then Headmaster, which was found in the Service Register of the Night Watchman who worked in the school, was compared with the disputed signature on the 7th class certificate of the first respondent, but they did not tally; and, based on the said report, the DEO had also sent a similar report, which had resulted in the charge memo being issued, regular enquiry being conducted, and the punishment being imposed.

The Tribunal further held that the first respondent had studied classes 6th to 10th in the same school from 1977-78 to 1981-82; she passed 10th class in March, 1982, and then joined intermediate; she failed in intermediate; since she continuously studied in that school upto 10th class, it was difficult to believe that

she had fabricated a false 7th class certificate; there was no need for her to do so; it was not the case of the petitioners herein that, without studying in the school, the first respondent had claimed as if she had studied thereat; as the records, relating to the relevant period, were not available in the school, there was no scope for the Headmaster to verify the genuineness of the 7th class certificate of the first respondent; he was not a handwriting expert; he could not have compared the signature of the previous Headmaster in the 7th class certificate with that of his admitted signature in the Service Register of the Night Watchman of the school, and then opined that the 7th class certificate was false; his opinion had no value in the eye of law; the enquiry officer ought not to have acted upon it to hold that the charge was proved; and, in the absence of the original records, his finding that the charge was proved is based only on surmises and conjectures. The Tribunal concluded that the findings were not supported by legal evidence and, therefore, the very penalty of removal from service could not be upheld.

The fact that the first respondent studied in the same school and passed 10th class therefrom is not in dispute. It defies reason that the first respondent, who had admittedly passed 10th class, would make a claim for appointment based on a fabricated 7th class pass certificate. If a student does not pass 7th class, he or she could not have even appeared for, let alone pass, the 10th class examination. The records relating to the 7th class certificate of the first respondent were not available for verification. The Tribunal has rightly held that the Headmaster ought not to have compared the signature of the erstwhile Headmaster on the 7th

class certificate with his signature in the Service Register of the Night Watchman; and that the Headmaster was no handwriting expert. As the relevant records relating to the 7th class certificate of the first respondent was not available, and she had passed 10th class in March, 1982, it could not be held that she had produced a false 7th class certificate. We are in agreement with the conclusion of the Tribunal that the charge was held proved based merely on surmises and conjectures.

The order of the Tribunal does not suffer from any legal infirmity necessitating interference under Article 226 of the Constitution of India. The Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. The miscellaneous petitions, pending if any, shall stand closed.

RAMESH RANGANATHAN,J

M.SATYANARAYANA MURTHY,J

20th January, 2015

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