

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 41999 of 2015

DATED 28TH December, 2015

BETWEEN

The State of Telangana, represented by its Secretary,
Social Welfare Department/now SC Development Department,
Secretariat, Hyderabad and ors.

...Petitioners

And

Ch. Malleshham and anr

...Respondents

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 41999 of 2015

ORDER: (Per Hon'ble Sri Justice U.DURGA PRASAD RAO)

We have heard the learned Government Pleader appearing for the petitioners-State. Perused the material on record.

This Writ Petition is filed by the State aggrieved by the order dated 10.03.2014 passed in O.A.No.3180 of 2012 by the Andhra Pradesh Administrative Tribunal (in short 'the Tribunal'). The Tribunal allowed the aforesaid OA filed by the first respondent/applicant and set aside the proceedings in Rc.No.A1/1132/2010 dated 19.7.2011 of the third petitioner

herein to the extent of treating the suspension period with effect from 24.11.2010 to 7.4.2011 as 'leave' and directed the petitioners herein to treat the suspension period with effect from 24.11.2010 to 7.4.2011 as 'on duty'. The Tribunal further directed the petitioners herein to pass orders accordingly with all consequential benefits.

The first respondent/applicant while working as Grade I HWO at Government Social Welfare Boys Hostel, Shankarampet, Medak District, faced disciplinary proceedings and he was placed under suspension vide proceedings Rc.No.A1/1132/2010 dated 24.11.2010 of the third petitioner herein. A charge memo was also issued vide proceedings dated 1.2.2011 of the third petitioner. Subsequently, taking into consideration the enquiry report submitted by the Enquiry Officer dated 31.5.2011, the Collector (SW), Medak District issued proceedings Rc.No.A1/1132/2010 dated 19.7.2011 dropping the case against the first respondent/applicant by taking a lenient view of giving warning to him to be more careful in future and treating the suspension period with effect from 24.11.2010 to 7.4.2011 (135 days) as 'leave' to which he was eligible as per rules. It was the case of the first respondent/applicant before the Tribunal that when the disciplinary proceedings initiated against the delinquent officer were dropped, the suspension period has to be treated as 'on duty' and since the warning is not considered as punishment as per rules, the stipulation of treatment of suspension period with effect from 24.11.2010 to 7.4.2011 as 'leave' is illegal and contrary to rules. The Tribunal after hearing both sides allowed the OA and passed the impugned order directing to treat the

suspension period with effect from 24.11.2010 to 7.4.2011 as 'on duty' and to pass orders accordingly with all consequential benefits. Aggrieved thereby, the State filed the instant Writ Petition.

The learned Government Pleader appearing for the petitioners-State submits that unless the suspension is held to be wholly unjustified, merely because the employee is acquitted of charges in the criminal proceedings or disciplinary proceedings, the suspension period cannot be automatically treated as 'duty period' and therefore the Tribunal was wrong in treating the suspension period as 'duty period'.

Having regard to the fact that after considering the report of the enquiry officer and the explanation submitted by the first respondent/applicant, the disciplinary authority has decided to drop the disciplinary proceedings initiated against the first respondent/applicant and the first respondent/applicant was only warned which cannot be considered as punishment, in our considered view, the Tribunal has rightly directed the petitioners herein to treat the suspension period with effect from 24.11.2010 to 7.4.2011 as 'duty period' and further directed to pass orders accordingly with all consequential benefits. We see no illegality or irregularity in the order passed by the Tribunal warranting interference of this Court.

The Writ Petition is dismissed. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE G.CHANDRAIAH

JUSTICE U.DURGA PRASAD RAO

DATED 28TH DECEMBER, 2015. .
Msnr_x