

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

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WRIT PETITION No.40143 of 2015
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ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

This writ petition was filed by the State aggrieved by the order dated 15.10.2012 passed by the Andhra Pradesh Administrative Tribunal at Hyderabad in O.A.No.8510 of 2010. The said OA was filed by the 1st respondent herein aggrieved by G.O. Rt. No.913, HOME (SERVICES-I) DEPARTMENT, dated 03.06.2010, whereby the period of suspension undergone by the 1st respondent was directed to be treated as 'not on duty for all purposes' and the pay and allowances for the suspension period were limited to the subsistence allowance already paid to him.

By the order under challenge, the Tribunal took note of the fact that the petitioner was placed under suspension from 03.01.2001 to 25.08.2001 and the Tribunal for Disciplinary Proceedings exonerated the 1st respondent and other delinquent officers from the charges, under its report dated 14.12.2006, which was duly accepted by the Government. The Tribunal therefore opined that there was no justification for treating the period of suspension undergone by the 1st respondent as 'not on duty for all purposes' and accordingly set aside G.O.Rt.No.913 dated 03.06.2010 and D.O.No.3871 dated 13.09.2010. The period of suspension was directed to be treated as on duty for all purposes and the 1st respondent was directed to be granted all consequential benefits such as arrears of pay, increments and pension etcetera.

By order dated 15.12.2015, this Court directed *status quo* obtaining as on that day to be maintained by both the parties and the said interim order was extended on 30.12.2015 for a period of one week.

Heard the learned Special Government Pleader appearing for the State and *Sri M.Surender Rao*, learned senior counsel representing *Sri P.Amarender*, learned counsel for the 1st respondent.

It is not in dispute that the suspension period of the 1st respondent pending disciplinary proceedings was nearly eight months, being from 03.01.2001 to 25.08.2001. However, the Tribunal for Disciplinary Proceedings exonerated him along with other delinquent officers and the said

recommendation of the Tribunal for Disciplinary Proceedings was accepted by the Government. This being the factual situation, there was no basis whatsoever to punish the 1st respondent by treating the period of suspension undergone by him as '*dies non*'. That being so, denying the 1st respondent the benefit of continuity of service for the period that he was kept under suspension would be wholly unsustainable. But, the fact also remains that the 1st respondent did not actually render service during the period of suspension. Hence, he would not be entitled to monetary benefits for the said period. We therefore modify the order under challenge by restricting the entitlement of the 1st respondent to continuity of service throughout the period of suspension and for all attendant benefits notionally. He shall, however, not be entitled to payment of actual monetary benefits for the period that he remained under suspension.

Subject to the afore-stated modification, the order under challenge is confirmed in all other respects.

The writ petition is accordingly disposed of. The State shall give effect to the modified order as expeditiously as possible and, at any rate, not later than two months from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. SEETHARAMA MURTI, J

04th August, 2016
RAR