

**HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No.41141 of 2015**

**ORDER:**

1. The petitioner states that he joined as Paid Secretary on 12.10.1984 in Pedaparupudi P.A.C.S. and thereafter after getting promotion he worked in several places. Lastly, he was posted as Special Category Assistant (Staff Assistant) in the 6<sup>th</sup> respondent branch on 18.01.2012. As per the job chart, he has to work under the control of Branch Manager. An enquiry was conducted under Section 51 of the A.P. Cooperative Societies Act and a report was submitted on 10.07.2012. Based on the said report, the petitioner was kept under suspension vide proceedings dated 03.10.2012 by the 3<sup>rd</sup> respondent. Thereafter, a charge memo dated 27.11.2012 was issued to the petitioner alleging that by connivance with the AM/Cashier, he misappropriated the funds of the bank to the extent of Rs.4,33,500/- and also caused loss to the bank by signing along with the Cashier on seven Demand Drafts to the tune of Rs.8,67,000/-. The case of the petitioner is that he never misappropriated any amount of the bank and he signed on seven Demand Drafts as a co-signatory on the instructions of the Branch Manager. However, a domestic enquiry was conducted and on the basis of the enquiry report submitted on 23.12.2014, a show cause notice was issued on 15.06.2015 proposing the punishment of termination from service. The petitioner submitted his detailed explanation on 08.08.2015 through e-mail. However, he states that without considering the said explanation, an order of termination was passed on 12.10.2015. Challenging the said order, the present writ petition

was filed.

2. When the writ petition is pending consideration in this Court, it appears that the bank noticed the explanation sent by the petitioner through e-mail and passed another order with the same date dismissing the petitioner from service.

3. Today, when the writ petition is taken up for consideration, the passing of the order of termination dated 12.10.2015, after considering the explanation of the petitioner, was brought to the notice of this Court by the learned Counsel for the 3<sup>rd</sup> respondent. A perusal of the said order shows that though an order dated 12.10.2015 was challenged in the present writ petition, that order was passed without considering the explanation of the petitioner, whereas the present order is passed after considering the explanation. Both orders are dated 12.10.2015. The learned Counsel for the petitioner submits that the 3<sup>rd</sup> respondent should not have passed the order with ante date without giving an opportunity of hearing to the petitioner. This Court sees that passing of the order with ante date 12.10.2015 when the writ petition is pending consideration is not proper in the circumstances of the case.

4. In the circumstances, without going into the merits of the case, the impugned order dated 12.10.2015 is set aside and the matter is remanded to the 3<sup>rd</sup> respondent for consideration of the explanation submitted by the petitioner on 08.08.2015 through e-mail and pass appropriate orders thereon in accordance with law after hearing the petitioner.

5. The Writ Petition is accordingly allowed to the extent indicated above. No order as to costs. Miscellaneous petitions,

if any, pending shall stand closed.

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**A.RAMALINGESWARA RAO, J**

20-07-2016  
*Gsn*