

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.12898 of 2016

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Date: 21.04.2016

Between:

The State of Andhra Pradesh
rep. by its Special Chief Secretary
Environment, Forests, Science & Technology Dept.,
Hyderabad and 2 others

.. Petitioners

and

R.V.Ravi Prakash and another

.. Respondents

**Counsel for the petitioners :
(AP)**

GP for Services

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The Court made the following:

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Order : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The order of dismissal passed against respondent No.1, who was working as Assistant Forest Beat Officer, was set aside by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'), *vide* Order, dated 30-12-2015, in OA.No.5766 of 2015, mainly on two grounds *viz.*, (1) That the Officer, who held preliminary enquiry and furnished a report, based on which disciplinary proceedings were initiated, was appointed as Presenting Officer in the enquiry; and (2) That the entire enquiry report was based on the statement of one Manikyam Gunasekhar, but he was not produced as a witness during the enquiry, thereby, depriving respondent No.1 of the opportunity of cross-examining him.

In our opinion, both these grounds are very much germane to hold that the whole enquiry was vitiated. Since the Tribunal has given the petitioners an opportunity of holding a fresh enquiry, we are not inclined to interfere with the order of the Tribunal.

The learned Government Pleader submitted that since the said Manikyam Gunasekhar, who is a red sanders smuggler, is at large and his whereabouts are not known, it is not possible for

the petitioners to examine the said witness.

In our opinion, it is for the petitioners to substantiate the charges framed against respondent No.1 by producing the relevant oral/documentary evidence and prove the charges based on preponderance of probabilities. Therefore, it is not necessary for this Court to suggest any particular method for proving the charges. If the cited witness is not available, the petitioners are entitled to produce any other material to support the charges. Since, the order of dismissal is set aside, respondent No.1 is deemed to be under suspension and he is entitled to be paid subsistence allowance for the time being. The petitioners shall complete the enquiry and pass a fresh order within a period of three months from the date of receipt of this order.

Subject to the above observations and directions, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.16161 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(M.S.K.Jaiswal, J)

Dt: 21st April, 2016
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