

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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W.P. No.29145 of 2014

and

W.P. No.16683 of 2015

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COMMON ORDER:

These two writ petitions are being disposed of by this common order as they arise out of the same cause of action.

The petitioner in W.P. No.29145/2014 is working as P.G.T (Telugu) in the respondent Society, whereas the petitioner in W.P. No.16683/2015 is working as T.G.T (Telugu). It appears that the Collector and District Magistrate, Mahabubnagar visited the school on 16.09.2009 as a surprise visit and noticed the petitioners and others entering the school late. He sent a note on 16.09.2009 to the Secretary of Society to initiate disciplinary action against the Principal and staff members, who were unauthorisedly absent from the duties on the day of examination. Based on the same, the Society framed charges against the petitioners. The petitioners submitted their explanation. The Society appointed an Enquiry Officer, who issued a notice to the petitioners along with four other teachers. The Enquiry Officer asked the petitioners to submit the written statement and the petitioners submitted the same. Based on the written statement, without conducting any enquiry and examining any witness, a report was submitted on 14.10.2010. The said report was communicated to the petitioners and others asking for submission of their representation. The petitioners submitted their representations. After considering the representations, two annual grade increments were stopped with cumulative effect by proceedings dated 12.06.2013. Challenging the same, the petitioners preferred an appeal to respondent No.1 and when the same was rejected by order dated 03.02.2014, the

present writ petitions were filed.

This Court carefully perused the Enquiry Report submitted by the Enquiry Officer on 14.10.2010. A perusal of the Enquiry Report makes it clear that only the defence statement of the petitioners was obtained and findings were recorded on the basis of statements. Though the Presenting Officer was appointed in the enquiry, the Presenting Officer did not submit his case and no witness was examined. It is for the Department to prove the case in respect of the allegations levelled against the petitioners in the departmental enquiry and the Enquiry Officer ought not to have recorded the findings based on the statements made during the enquiry. The petitioners denied the charges. In view of the same, in the absence of following the procedure contained in the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 before imposing the major punishment of stoppage of two annual grade increments with cumulative effect by order dated 12.06.2013 and confirming the same by respondent No.1 on 03.02.2014, this Court is constrained to allow these writ petitions. However, since these writ petitions are allowed only on the ground of not following the due procedure, liberty is given to the respondents to conduct *de novo* enquiry, if the respondents so choose.

With the above observations, these writ petitions are allowed. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

19.07.2016

MVA