

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI**

WRIT PETITION NO.24991 OF 2014

**O R D E R
(Per Hon'ble Sri Justice Sanjay Kumar)**

The State of Telangana and its Principal Chief Conservator of Forests filed this writ petition aggrieved by the order dated 07.03.2013 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for brevity, 'the Tribunal'), in O.A.No.6515 of 2010. The said O.A. was filed by the first respondent herein challenging G.O.Ms.No.122, Environment, Forests, Science and Technology (For.IV) Department, dated 19.07.2010, whereby he was visited with the penalty of 50% cut in pension for ten years, apart from recovery of Rs.89,375/-, under Rule 9 of A.P. Revised Pension Rules, 1980. A consequential declaration was sought by him that he was entitled to full pension and attendant benefits. By the order under challenge, the Tribunal set aside G.O.Ms.No.122 dated 19.07.2010, but held that the authorities were not precluded from taking action in accordance with the rules.

By order dated 28.08.2014, this Court granted interim suspension of the operation of the order passed by the Tribunal which is under challenge. WVMP No.630 of 2015 was filed by the first respondent to vacate the aforestated order.

As comprehensive arguments were advanced by the learned Government Pleader for Services (Telangana) and Sri P.V.Ramana, learned counsel for the first respondent, the main writ petition is taken up for disposal.

The first respondent worked as a Deputy Range Officer in Akkannapeta Section, Ramayampet Range of Medak Division, from

29.06.1995 to 14.11.1997. In that capacity, he got certain works executed. He was placed under suspension on 06.11.1997 in relation to alleged irregularities in execution of these works. He was subjected to disciplinary proceedings which culminated in the enquiry report dated 04.05.2000. After consideration of his explanation, he was dismissed from service *vide* proceedings dated 05.02.2002. The same was confirmed in appeal on 26.10.2002. Aggrieved thereby, he filed O.A.No.7107 of 2006 before the Tribunal, which was allowed on 28.02.2007. The matter was remanded to the disciplinary authority to enable it to exercise its power independently, uninfluenced by Government directives, and pass appropriate orders upon due examination of the enquiry report. The first respondent however retired from service on 31.03.2007 upon attaining the age of superannuation. Thereafter, show-cause notice dated 03.02.2009 was issued to him by the authorities calling for a further explanation from him and he was then visited with the impugned Government Order, whereby he was imposed with the punishment of 50% cut in pension, apart from recovering a sum of Rs.89,375/- from him.

Perusal of the impugned Government Order reflects that the Government not only examined the enquiry report but also looked into the reports dated 06.11.2008, 23.06.2009 and 17.07.2009 of the Principal Chief Conservator of Forests. It appears that the Principal Chief Conservator of Forests recommended imposition of the penalty of withholding the entire pension and gratuity payable to the first respondent and the show-cause notice was also issued to him on the same lines. The explanation submitted by the first respondent was then examined by the Government in consultation

with the Principal Chief Conservator of Forests. Thereupon, the Government imposed the punishment of 50% cut in pension for ten years besides ordering recovery of Rs.89,375/-. The Tribunal took note of these facts and observed that the disciplinary authority had not applied its mind independently but had gone by the recommendation of the Principal Chief Conservator of Forests, as was evident from the show cause notice issued to the first respondent replicating his recommendation. This pre-determination of the punishment to be imposed was held to be in violation of the settled principles of law and the impugned Government Order was accordingly set aside on that ground.

Perusal of the writ affidavit deposed to by the Principal Secretary to the Government, Panchayat Raj and Rural Development Department, State of Telangana, reflects that the authorities do not dispute the fact that they took into account various reports submitted by the Principal Chief Conservator of Forests, which were not within the knowledge of the first respondent. When the earlier punishment of dismissal from service was set aside on the short ground that the disciplinary authority had failed to apply its mind independently but had followed the directives of others, it is indeed strange that the disciplinary authority once again committed the same error by relying upon the inputs and recommendation of the Principal Chief Conservator of Forests behind the back of the first respondent. In the event the disciplinary authority wanted to rely upon such reports submitted to it by the Principal Chief Conservator of Forests, it necessarily had to put the first respondent on notice as to the contents thereof, call for his explanation and only thereafter proceed in the

matter. Further, such reports had to be in the context of and within the ambit of the enquiry already undertaken and could not introduce any new facts or issues.

This Court therefore finds no error committed by the Tribunal in setting aside the impugned G.O. Further, the authorities were specifically granted liberty by the Tribunal to take further action in accordance with the rules. Notwithstanding the same, this writ petition was filed whereby the proceedings were once again stalled.

Keeping in mind the fact that the irregularities imputed to the first respondent date back to the year 1997, this writ petition is closed leaving it open to the disciplinary authority to take appropriate action, if still warranted, in accordance with the rules independently and without taking into consideration any material or documents which were not put to the first respondent. This exercise, if undertaken, shall be completed as expeditiously as possible and, in any event, not later than four weeks 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

N.BALAYOGI, J

27th FEBRUARY, 2017
PGS