<u>The Hon'ble Sri Justice C.V.Nagarjuna Reddy</u>

<u>and</u>

<u>The Hon'ble Smt. Justice Kongara Vijaya Lakshmi</u>

<u>Writ Petition No.31473 of 2017</u>

<u>Date: 06.10.2017</u>

Between:

CJS.Naidu

… Petitioner

and

The State of Andhra Pradesh
Rep. by its Prl.Secretary
General Administration (Political) Dept.,
A.P.Secretariat, Hyderabad, now at Velagapudi,
Amaravathi (Post), Guntur District, AP and 2 others

…Respondents

Counsel for the Petitioner: Mr.K.Ram Reddy

Counsel for the respondents: GP for Services-I (AP)

The Court made the following:

<u>Order</u>: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for a Certiorari to quash Order, dated 03-02-2017, in OA.No.1992 of 2007 on the file of Andhra Pradesh Administrative Tribunal (for short "the Tribunal").

The petitioner was initially appointed as a Junior Assistant in the Secretariat Department in the year 1978. Later, he was appointed as an Assistant Commercial Tax Officer through appointment by transfer on 10-04-1994. After being relieved by the Secretariat Department, the petitioner had joined the services of the Commercial Tax Department on 05-05-1994. By proceedings, dated 22.04.1996, the petitioner's lien on the post of the Assistant Section Officer in the Secretariat Department was forfeited. The office of the Commissioner of Commercial Taxes, Hyderabad, had also issued proceedings, dated 06-11-2000, confirming the termination of lien. The petitioner was promoted as a Deputy Commercial Tax Officer on 24-12-2012. He was also made incharge Commercial Tax Officer on 24.08.2013 and he retired from service on attaining the age of superannuation in December, 2013.

During the above tenure in the Commercial Tax Department, the petitioner had faced the disciplinary proceedings initiated by respondent No.1, in connection with which two charges were framed *vide* G.O.Rt.No.5234 G.A.(SC.D) Department, dated 07-10-2006. Questioning the charge memo, the petitioner had earlier filed OA.No.1992 of 2007 wherein one of the issues raised by him was that, under Rule 20 of the A.P.C.S.(CCA) Rules 1991, respondent No.1 is not the competent authority to initiate department proceedings as his services were already absorbed in the Commercial Tax Department. The Tribunal had granted stay of the said charge memo on 23-04-2007. However, the said OA was dismissed by the Tribunal by clubbing the same along with OA.No.2541 of 2004 *vide* Order, dated 07.08.2009. Challenging the said order, the petitioner filed WP.No.5148 of 2010, which was disposed of by this Court by order, dated 09-03-2010, remanding OA.No.1992 of 2007 for fresh disposal. After reopening of the OA, the Tribunal has dismissed the same by the impugned order, dated 03-02-2017. Questioning this Order, the petitioner filed this Writ Petition.

When this case came up for hearing on 04-10-2007, this Court has granted time to the learned Government Pleader for Services (AP) to get instructions as to how respondent No.1 could exercise the disciplinary jurisdiction against the petitioner when he was permanently absorbed in the Commercial Tax Department.

Today, at the hearing, the learned Government Pleader, while fairly conceding that on his appointment as the Assistant Commercial Tax Officer, the petitioner's lien in the Secretariat Department was terminated, could not explain as to how respondent No.1 could exercise the disciplinary jurisdiction.

In the light of the above admitted facts, we have no hesitation to hold that respondent No.1, which, admittedly, has no jurisdiction over the employees of the Commercial Tax Department, had no disciplinary control over the petitioner and accordingly, the charge memo issued by it is wholly without jurisdiction. The Tribunal failed to consider this vital aspect while dismissing the OA.

For the afore-mentioned reasons, Order, dated 03-02-2017, in OA.No.1992 of 2007, on the file of the Tribunal, is set aside and the charge memo issued *vide* G.O.Rt.No.5234 G.A.(SC.D) Department, dated 07-10-2006, is quashed on the sole ground of respondent No.1 lacking jurisdiction.

The Writ Petition is, accordingly, allowed.

As a sequel, WPMP.No.39194 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Kongara Vijaya Lakshmi, J)

Dt: 6th October, 2017
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