

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal Nos.98, 101, 106 and 108 of 2017

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

These four writ appeals are preferred against the interlocutory order passed in two writ petitions i.e W.P.Nos.44406 and 44533 of 2016. In the said two writ petitions both the 1st respondent-writ petitioners sought an interim order to suspend the order of their removal from service, and to direct the appellants herein to continue them in service until further orders. By the order under appeal the Learned Single Judge suspended the order of removal on the ground that it was passed in gross violation of principles of natural justice, and without conducting any enquiry.

In all three employees of the appellant-society were removed from service. While two such employees are before us in these four appeals, the third employee preferred W.P.No.44495 of 2016 and, on a similar interim order being passed by the Learned Single Judge, the appellants herein filed W.A.Nos.3 and 5 of 2017. A Division Bench of this Court, in its order dated 04.01.2017, noted that the 1st respondent-writ petitioner was under suspension upto the date of his removal from service; therefore, in any case, there could not have been a direction to pay arrears of salary, and to direct the appellants to continue to pay monthly salary and to permit the 1st respondent-writ petitioner to sign the attendance register. While allowing the Writ Appeals, and setting aside the interim orders passed by the Learned Single Judge, the Division Bench directed the appellants to pay arrears of salary to the 1st respondent-writ petitioner upto the date of suspension and arrears, if any, of subsistence allowance from the date of suspension upto the date of removal from service. The arrears were directed to be paid within four weeks. The appellants were directed to file a counter affidavit in the writ

petition within two weeks and, once a counter affidavit was filed, the writ petition was directed to be listed for final hearing and disposal before the appropriate Bench.

While Sri M.Kesava Rao, learned counsel for the appellants, would seek a similar order, Sri K.S.Murthy, learned counsel for the 1st respondent-writ petitioners, would place certain documents before us, in support of his contention that the order of removal was passed in gross violation of principles of natural justice; and even the documents sought for by the appellants, which included information regarding the Government approved action plan programmes and work distribution of all the employees, were not furnished, thereby denying the 1st respondent-writ petitioners the opportunity of putting forth their objections to the charge sheet issued by the appellants. Learned counsel would submit that keeping the writ petitions pending on the file of this Court would serve no useful purpose, as even when the writ petitions are finally heard, the only relief which can be granted to the petitioners is for documents to be supplied to them, and for an enquiry to be conducted afresh while retaining the first respondent-writ petitioners herein under suspension.

While the submission of Sri K.S.Murthy, learned counsel for the 1st respondent-writ petitioners, cannot be said to be without merit, this Court, in proceedings under Article 226 of the Constitution of India, would ordinarily not interfere with the orders of punishment, that too without giving the employer an opportunity of filing their counter affidavit.

We see no reason, therefore, to pass an order different from that passed by the Division Bench of this Court in W.A.Nos.3 and 5 of 2017 dated 04.01.2017. The appellants shall, within four weeks from today, pay the 1st respondent-writ petitioners the arrears of salary upto the date of suspension, and arrears of subsistence allowance, if any, from the date of suspension till the order of removal. They shall also file their

counter affidavits in the writ petitions within two weeks from today. It is open to the 1st respondent-writ petitioners, any time after two weeks, to request the Learned Single Judge for an out of turn hearing of the Writ Petitions.

The orders under appeal are set aside, and the Writ Appeals are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

23rd January, 2017
JSU



**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER**



Writ Appeal Nos.98, 101, 106 and 108 of 2017

Date: 23.01.2017

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