

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**W.V.M.P.No.654 of 2017 in W.P.M.P.No.49844 of 2016**

**in/and**

**W.P.No.40453 of 2016**

**ORDER:**

Heard the counsel for petitioner and Smt. R.Padma Rekha, learned Standing Counsel for the respondents.

2. In this Writ Petition, petitioner has assailed order dt.20-01-2016 of 3<sup>rd</sup> respondent rejecting appeal filed on 29-10-2015 by the petitioner and the petitioner's services on contract basis were terminated by 4<sup>th</sup> respondent on 07-09-2015.

3. Petitioner contends that the charges framed against the petitioner are themselves vague and no material particulars were indicated therein. Though the petitioner submitted an explanation to the charges communicated on 07-11-2014 and 07-02-2015 to show cause notices dt.28-10-2014 and 23-01-2015, the contents of the explanation were not even referred to in the impugned order passed by 4<sup>th</sup> respondent and that no reasons are assigned in the impugned order why the petitioner's explanations to the charges could not be accepted. He also contended that no enquiry was conducted into the charges and no witness were examined or documents marked in the enquiry conducted by 4<sup>th</sup> respondent before passing the order dt.07-09-2015 by 4<sup>th</sup> respondent.

4. Petitioner further contended that he questioned this order dt.07-09-2015 of 4<sup>th</sup> respondent before 3<sup>rd</sup> respondent and the 3<sup>rd</sup> respondent passed a cryptic order referring to only one sentence in the grounds of appeal without considering the fact that 134 items were mentioned in the charge memoes issued to him; and confirmed the same in a routine manner without application of mind to the grounds of appeal raised by him.

5. In the counter affidavit filed by the respondents through 4<sup>th</sup> respondent, the respondents have sought to justify the said order on the basis of certain enquiry conducted by officials of the 4<sup>th</sup> respondent department, copies of which do not appear to have been furnished to the petitioner at all. It is merely stated that 4<sup>th</sup> respondent examined the entire record and explanation submitted by the petitioner and came to the conclusion that the charges framed against the petitioner were proved. Thus the 4<sup>th</sup> respondent has acted in violation of principles of natural justice.

6. It is not denied by the respondents that reasons for the finding the petitioner guilty of charges are not contained in the impugned order and that no oral or documentary evidence was adduced by the respondents in the enquiry against the petitioner. This is also a gross violation of principles of natural justice.

7. Coming to the appellate order, it is merely stated by the respondents that 3<sup>rd</sup> respondent also verified the records and found

that the petitioner did not adduce any new evidence other than the evidence furnished by the disciplinary authority.

8. In my considered opinion, even the appellate order cannot be sustained since the infirmities in the order passed by the primary authority are not dealt with by the appellate authority and when a liability of Rs.33,37,492/- is being imposed on the petitioner, the appellate authority is required to consider more elaborately the contentions of the petitioner and cannot simply brush them in one sentence.

9. In this view of the matter, W.V.M.P.No.654 of 2017 is dismissed; the Writ Petition is allowed and the orders dt.07-09-2015 of 4<sup>th</sup> respondent as well as the order dt.20-01-2016 of 3<sup>rd</sup> respondent are both set aside; and the matter is remitted back to 4<sup>th</sup> respondent to conduct proper enquiry into the matter after supplying the material on which the 4<sup>th</sup> respondent intends to rely to the petitioner; give petitioner an opportunity to rebut the same; and then complete the enquiry into the charges leveled against the petitioner and pass a reasoned order in accordance with law. This exercise shall be completed within four months from the date of receipt of a copy of this order. In view of the above, the contract of the petitioner shall be renewed till a fresh order is passed by 4<sup>th</sup> respondent and the petitioner shall be paid salary from 07-09-2015 till a final order is passed in enquiry by 4<sup>th</sup> respondent afresh pursuant to this order. No costs.

10. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 08-02-2018

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