THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION Nos.35460 of 2013;
1368, 1488, 1531, 5970, 5999, 14976, 19567, 19765, 22578,
24160, 25603, 25632, 25720, 26038, 26316, 26319, 26355,
26500, 26511, 26515, 26951, 29126, 29218, 31645, 31784,
34122, 35717, 38533, OF 2014;
3224, 4133, 5725, 8720, 10440, 11406, 11422, 12671, 15941,
15943, 15952, 16007, 17167, 17622, 20458, 41494 of 2015;
67, 69, 1460, 4494, 4801, OF 2016;

COMMON ORDER
(*per* Hon'ble Sri Justice Sanjay Kumar)

All these cases relate to removal of Home Guards from the rolls of the Home Guards Organization in the State of Telangana.

In W.P.No.35460 of 2013, the first respondent was appointed as a Home Guard on 18.08.2005 in Khammam District. He was removed from service on the ground of unauthorized absence by the Superintendent of Police, Khammam District, *vide* order 01.02.2012. Aggrieved thereby, he filed O.A.No.1555 of 2013 before the Andhra Pradesh Administrative Tribunal, Hyderabad (*hereinafter*, 'the Tribunal'). The said O.A. was allowed by common order dated 25.04.2013 along with O.A.No.1493 of 2013 and batch. In their counter filed before the Tribunal, the authorities claimed that three show cause notices were issued to the first respondent-applicant on 17.08.2011, 26.09.2011 and 17.10.2011 respectively prior to his removal. According to them, the respondent-applicant refused to receive the said notices and they were pasted on his house before mediators and the Head Constable who did so was stated to have informed this to the superior authority under his letter dated 05.12.2011. Assailing the common order dated 25.04.2013 passed in O.A.No.1493 of

2013 and batch in so far as it related to O.A.No.1555 of 2013, the State and its police officials filed this writ petition. By order dated 09.12.2013, this Court took note of the fact that the material placed on record demonstrated that a notice had been given to the first respondent-applicant as to his unauthorized absence and that he had failed to respond thereto and accordingly granted interim suspension of the order under challenge. W.V.M.P.No.2767 of 2017 was filed by the first respondent-applicant to vacate the said order. In the counter filed in support thereof, he denied the pasting of show cause notices on his house in the presence of mediators. He however did not deny that the two mediators, who signed upon the letter dated 05.12.2011 of the Head Constable who pasted the notices upon his door, were his neighbours. Be it noted that the original show cause notices dated 17.08.2011 and 26.09.2011 in Telugu placed on record bear signatures on the reverse in proof of receipt and comparison thereof with those of the first respondent-applicant in the counter filed in support of the vacate stay petition reflects similarities.

In W.P.No.1368 of 2014, the first respondent was appointed as a Home Guard on 31.12.2006. He was removed from service by the Superintendent of Police, Warangal District, *vide* order dated 24.10.2011 on the ground that he had indulged in corrupt practices. Aggrieved thereby, he filed O.A.No.587 of 2013 before the Tribunal. The said O.A. was allowed by common order dated 25.04.2013 along with O.A.No.1493 of 2013 and batch. Assailing the said order in so far as it pertained to O.A.No.587 of 2013, the State and its police officials filed this writ petition. Taking note of the fact that the first respondent-applicant was given a show cause notice prior to his removal, this Court granted interim

suspension of the order under challenge on 23.01.2014. Admittedly, show cause notice dated 27.09.2011 was issued to the first respondent-applicant in relation to the complaints received against him by the Reserve Inspector of Police, Home Guards Organization, Warangal. He submitted his explanation thereto on 03.01.2011. The Three Men Committee chaired by the Superintendent of Police, Warangal District, found that his explanation was not convincing and in the light of the irrefutable evidence of his having indulged in corrupt practices, the Committee resolved to remove him from the rolls of the Home Guards Organization, Warangal. Basing thereupon, the Superintendent of Police, Warangal District, issued the order of removal dated 24.10.2011. In the common order dated 25.04.2013, the Tribunal extracted the facts relevant to one case, *viz.*, O.A.No.1493 of 2013, being of the opinion that the issues involved were common in all the O.A.s. The point for consideration was framed thus:

> 'Whether the impugned Order bearing C.No.31 / RI-HGs / MBNR / 2008 / (D.O.No.2590/09) dated 27/30.10.2009 issued by the 5th respondent removing the applicant as Home Guard from the rolls of Home Guards Organization of Mahabubnagar District is bad in law?'

Ultimately, the Tribunal opined that as there was violation of the statutory rule requiring issuance of prior notice to a Home Guard and a reasonable opportunity being afforded to him before removal from service, the Tribunal allowed all the O.A.s. Significantly, though a show cause notice was issued it did not contain the details of the charge and the substratum thereof.

In W.P.No.1488 of 2014, the first respondent was appointed as a Home Guard in Adilabad District on 30.12.2003. He was removed from service by the Superintendent of Police, Adilabad District, *vide* order dated

24.01.2009 on the ground of unauthorized absence from duty. Aggrieved thereby, he filed O.A.No.3187 of 2013 before the Tribunal. By order dated 30.04.2013, the Tribunal allowed the said O.A. on the ground that the impugned removal was violative of the principles of natural justice. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 24.01.2014. W.V.M.P.No.898 of 2014 was filed by the first respondent-applicant to vacate the said order. The authorities claimed that show cause notices/Memos were issued to the first respondent-applicant calling for his explanation in relation to his unauthorized absence but despite the same being served upon him on 24.11.2008, 02.12.2008 and 10.12.2008, he did not submit any explanation. Copies of the Memos dated 24.11.2008, 02.12.2008 and 10.12.2008 bear signatures along with the date of receipt. The said signatures are similar to those of the first respondent-applicant in his counter-affidavit filed in this writ petition.

In W.P.No.1531 of 2014, the first respondent was appointed as a Home Guard on 28.08.2003. He was removed from service by the Superintendent of Police, Warangal District, *vide* order dated 15.03.2008 on the ground of unauthorized absence. Aggrieved thereby, he filed O.A.No.3137 of 2013 before the Tribunal. By common order dated 29.04.2013 passed in a batch of cases, including O.A.No.3137 of 2013, the Tribunal allowed all the cases following its earlier orders. Assailing the said common order in so far as it related to O.A.No.3137 of 2013, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 24.01.2014 taking note of the fact that a show cause notice was given to the first respondent-applicant before his removal from service. It is the claim of

the authorities that show cause notice dated 28.02.2008 was issued to the first respondent-applicant before he was removed from service. A photo copy thereof is placed on record, but it does not bear any signature in proof of receipt by the first respondent-applicant. The same stand was taken by the authorities in their counter filed before the Tribunal. No rejoinder was filed by the first respondent-applicant before the Tribunal rebutting this statement.

In W.P.No.5970 of 2014, the first respondent was appointed as a Home Guard on 07.09.2010. He was removed from service by the Superintendent of Police, Warangal District, *vide* order dated 12.09.2011 on the ground of unauthorized absence. Aggrieved thereby, he filed O.A.No.9547 of 2012 before the Tribunal. The said O.A. was allowed by order dated 12.12.2012, wherein the Tribunal opined that as the first respondent-applicant had been acquitted in C.C.No.124 of 2011 on the file of the learned VII Additional Judicial Magistrate of First Class, Warangal, *vide* judgment dated 08.09.2011, there would be no impediment in allowing him to discharge his duties as a Home Guard. The issue of his unauthorized absence was however not dealt with. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 04.03.2014. In the affidavit filed in support of the writ petition, the authorities claimed that the first respondent-applicant was issued show cause notices dated 03.07.2011 and 27.07.2011 calling for his explanation in relation to his unauthorized absence from duty. According to them, he failed to submit his explanation and it was only thereafter that he was removed from service. They also pointed out that he had been removed from service due to his unauthorized absence and not due to his

involvement in a criminal case. Though Sri R.Rajasekhar Rao, learned counsel, entered appearance for the first respondent-applicant, he did not choose to file a counter rebutting the aforestated averments made in the writ affidavit.

In W.P.No.5999 of 2014, the first respondent was appointed as a Home Guard on 07.01.2004 in Khammam District. He was removed from service by the Superintendent of Police, Khammam District, *vide* order dated 18.12.2010 on the ground of unauthorized absence from duty. Aggrieved thereby, he filed O.A.No.1915 of 2013 before the Tribunal. By common order dated 25.04.2013, the Tribunal allowed the said O.A. along with O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge in so far as it related to O.A.No.1915 of 2013 was granted by this Court on 04.03.2014. W.V.M.P.No.901 of 2014 was filed by the first respondent-applicant to vacate the said order. Be it noted that it is the case of the authorities that show cause notices dated 13.11.2010, 22.11.2010 and 10.12.2010 were issued to the first respondent-applicant calling for his explanation as to his unauthorized absence, but he did not choose to respond. Copies of the said show cause notices are placed on record and they bear signatures in Telugu in proof of receipt. However, in his counter-affidavit filed in support of the vacate stay petition, the first respondent-applicant signed in English. Similarly, he signed in English in the vakalat form also. Further, he categorically denied receipt of the show cause notices and asserted that he never endorsed them with signatures in Telugu. He further stated that he never signed in Telugu even in the office records, including the attendance register. No reply affidavit was filed by the authorities rebutting these averments.

In W.P.No.No.14976 of 2014, the first respondent was appointed as a Home Guard on 17.10.20005 in Nizamabad District. He was removed from service for unauthorized absence by order dated 29.04.2008 of the Superintendent of Police, Nizamabad District, without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.5100 of 2013 before the Tribunal. By order dated 04.07.2013, the Tribunal allowed the said O.A. following its earlier order dated 01.10.2010 in O.A.No.2583 of 2008, which was confirmed by this Court in W.P.No.28875 of 2010 and batch, *vide* order dated 07.09.2011. He was directed to be reinstated in service in consequence. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 03.06.2014, this Court granted interim suspension of the order under challenge.

In W.P.No.19567 of 2014, the first respondent was appointed as a Home Guard on 29.12.2003. He was removed from service by the Superintendent of Police, Nalgonda District, *vide* order dated 27.02.2008 on the ground of unauthorized absence. Aggrieved thereby, he filed O.A.No.1005 of 2014 before the Tribunal. The said O.A. was allowed by order dated 12.02.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 07.08.2014. The removal order dated 27.02.2008 records that show cause notices were issued to the first respondent-applicant on 25.07.2007, 01.08.2007 and 10.08.2007. However, copies of the said show cause notices are not placed on record and there is no evidence of service of such notices upon the first respondent-applicant.

In W.P.No.19765 of 2014, the first respondent was appointed as a Home Guard in the year 2007. He was removed from service by the Superintendent of Police, Nalgonda District, *vide* order dated 28.01.2009 on the ground of unauthorized absence. Aggrieved thereby, he filed O.A.No.854 of 2015 before the Tribunal. The said O.A. was allowed by order dated 07.02.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. *Status quo* obtaining as on 08.08.2014 was directed to be maintained by this Court. W.V.M.P.No.4064 of 2014 was filed by the first respondent-applicant to vacate the said order. According to the authorities, the first respondent-applicant was issued show cause notices dated 20.10.2008, 10.11.2008 and 25.11.2008 prior to his removal from service, but he did not respond thereto. Copies of the said show cause notices are placed on record and bear signatures in Telugu in proof of receipt. The said signatures tally with the signatures of the first respondent-applicant in his counter-affidavit but he asserted therein that he did not receive any show cause notices and that the signatures therein were not his. He further stated that even if the averment that show cause notices were served upon him was taken at its face value, the said notices did not comply with the relevant rule.

In W.P.No.22578 of 2014, the first respondent was appointed as a Home Guard on 20.07.1992. This is however disputed as the authorities stated in the writ affidavit that the records reveal that he was appointed as a Home Guard on 15.11.1995. In any event, he was removed from service by the Superintendent of Police, Warangal District, *vide* order dated 11.08.2001 on the ground that he had committed forgery. Aggrieved thereby, he filed O.A.No.3196 of 2013 before the Tribunal. The

said O.A. was allowed by order dated 20.01.2014, wherein the Tribunal opined that the removal was in violation of the principles of natural justice. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 07.08.2014. W.V.M.P.No.2190 of 2017 was filed by the first respondent-applicant to vacate the said order. It is not the case of the authorities that they issued any show cause notice or afforded any opportunity of hearing to the first respondent-applicant prior to his removal from service on the grave charge that he had committed forgery.

In W.P.No.24160 of 2014, the first respondent was appointed as a Home Guard in the year 1995. He was removed from service *vide* order dated 12.01.2001 of the Superintendent of Police, Nizamabad District, on the ground that he had misplaced the records. This order was however not preceded by any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.943 of 2014 before the Tribunal. By order dated 11.02.2014, the Tribunal allowed the O.A. following its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. The authorities were directed to reinstate him in service forthwith. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 22.08.2014, this Court granted interim suspension of the order under challenge.

In W.P.No.25603 of 2014, the first respondent was appointed as a Home Guard in Nizamabad District on 20.11.2006. He was removed from service for unauthorized absence by order dated 09.10.2009 of the Superintendent of Police, Nizamabad District, without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.913 of 2014 before the Tribunal. By order dated 11.02.2014, the Tribunal allowed the O.A. following its earlier order dated 25.04.2013 in

O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 03.09.2014, this Court granted interim suspension of the order under challenge.

In W.P.No.25632 of 2014, the first respondent was appointed as a Home Guard on 03.09.2005 in Nizamabad District. He was removed from service by order dated 19.07.2011 of the Superintendent of Police, Nizamabad District, due to involvement in a crime registered under Section 304-A IPC. It is however relevant to note that prior to his removal, show cause notice dated 12.02.2011 was issued to him and he submitted his explanation on 24.03.2011. The order of removal dated 19.07.2011 is however not a reasoned order in so far as the first respondent is concerned as 53 Home Guards were removed from service thereunder at a stroke, merely noting remarks against each of them. In so far as the first respondent is concerned, the remarks noted against his name read:

> 'He is involved in criminal case vide Cr.No.387/2010 U/s 304 (A) IPC, dtd: 7.12.10 of Rural PS of Nizamabad and issued show cause notice.'

Aggrieved by his removal from service, the first respondent filed O.A.No.9153 of 2013 before the Tribunal. The said O.A. was allowed *vide* order dated 27.12.2013, wherein the Tribunal opined that the matter was covered by its earlier order dated 20.11.2012 in O.A.No.9065 of 2012. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 03.09.2014, this Court granted interim suspension of the order under challenge.

In W.P.No.25720 of 2014, the first respondent was appointed as a Home Guard on 31.12.2003 in Nizamabad District. He was removed from service for unauthorized absence by order dated 30.06.2010 of the Superintendent of Police, Nizamabad District, without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.6568 of

2013 before the Tribunal. The O.A. was allowed by order dated 04.09.2013, wherein the Tribunal opined that the matter was covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 03.09.2014.

In W.P.No.26038 of 2014, the first respondent was appointed as a Home Guard on 31.12.2003. He was removed from service for unauthorized absence by order dated 08.12.2006 of the Superintendent of Police, Nizamabad District. Claiming that he was never served the said order of removal, he filed O.A.No.169 of 2014 before the Tribunal assailing the same. By order dated 20.01.2014, the Tribunal allowed the O.A. following its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 25.06.2015, this Court granted interim suspension of the order under challenge.

In W.P.No.26316 of 2014, the first respondent was appointed as a Home Guard on 20.04.2007. He was removed from service by the Superintendent of Police, Nalgonda District, *vide* order dated 25.02.2012, on the ground of unauthorized absence. Aggrieved thereby, he filed O.A.No.2053 of 2014 before the Tribunal. The said O.A. was allowed by the order dated 18.03.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension was granted on 08.09.2014. It is not the case of the authorities that they issued any show cause notice to the first respondent-applicant prior to his removal.

In W.P.No.26319 of 2014, the first respondent was appointed as a Home Guard in October, 1998. He was removed from service pursuant to the resolution dated 29.01.2010 of the Three Member Committee chaired by the Superintendent of Police, Nalgonda District, on the ground of unauthorized absence. Aggrieved thereby, he filed O.A.No.1257 of 2014 before the Tribunal. The said O.A. was allowed by order dated 17.02.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 08.09.2014. W.V.M.P.No.2174 of 2015 was filed by the first respondent-applicant to vacate the said order. The authorities did not claim that they put the first respondent-applicant on notice prior to his removal from service.

In W.P.No.26355 of 2014, the first respondent was appointed as a Home Guard on 27.08.2005. He was removed from service by the Superintendent of Police, Nalgonda District, *vide* order dated 24.12.2007 on the ground that he had exhibited grave misconduct by consuming alcohol while on duty. Aggrieved thereby, he filed O.A.No.2725 of 2014 before the Tribunal. The said O.A. was allowed by order dated 16.04.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 09.09.2014. It is not the case of the authorities that they put the first respondent-applicant on notice prior to his removal on the charge of misconduct.

In W.P.No.26500 of 2014, the first respondent was appointed as a Home Guard on 03.12.2009 in Nalgonda District. He was removed from

service by the Superintendent of Police, Nalgonda District, *vide* order dated 31.12.2010, due to unauthorized absence from duty. Aggrieved thereby, he filed O.A.No.2202 of 2014 before the Tribunal. The said O.A. was allowed by order dated 21.03.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 10.09.2014. W.V.M.P.No.293 of 2015 was filed by the first respondent-applicant to vacate the said order. It is not the case of the authorities that they put the first respondent-applicant on notice prior to his removal from service.

In W.P.No.26511 of 2014, the first respondent was appointed as a Home Guard in Hyderabad City in the year 2007. He was transferred to Nalgonda District thereafter. He was removed from service by order dated 31.12.2010 of the Superintendent of Police, Nalgonda District, due to involvement in a criminal case without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1316 of 2014 before the Tribunal. The O.A. was allowed by order dated 21.02.2014, wherein the Tribunal opined that the matter was covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 10.09.2014. W.V.M.P.No.265 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.26515 of 2014, the first respondent was appointed as a Home Guard in the year 2007. He was removed from service, *vide* order dated 25.02.2012 of the Superintendent of Police, Nalgonda District, for

unauthorized absence without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.2076 of 2014 before the Tribunal. The said O.A. was allowed by order dated 18.03.2014, wherein the Tribunal recorded that the case was covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 10.09.2014. W.V.M.P.No.343 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.26951 of 2014, the first respondent was appointed as a Home Guard in Nalgonda District on 11.10.1998. He was removed from service, *vide* order dated 19.06.2009 of the Superintendent of Police, Nalgonda District, for unauthorized absence from duty without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1004 of 2014 before the Tribunal. The said O.A. was allowed by the Tribunal *vide* order dated 12.02.2014 recording that the matter was squarely covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 12.09.2014, this Court granted interim suspension of the order under challenge. W.V.M.P.No.348 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.29126 of 2014, the first respondent was appointed as a Home Guard on 16.03.1996 in Karimnagar District. He was removed from service by the Superintendent of Police, Karimnagar District, *vide* order dated 19.03.2003, on the ground that he was involved in Crime No.147 of 2002 registered under Sections 419 and 511 IPC on the file of the Vemulawada Police Station. The order of removal was not preceded by

any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1361 of 2014 before the Tribunal. The O.A. was allowed by order dated 20.02.2014, wherein the Tribunal recorded that the matter was covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 25.09.2014. W.V.M.P.No.4262 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.29218 of 2014, the first respondent was appointed as a Home Guard on 07.01.2004 in Warangal District. She was removed from service, *vide* order dated 17.11.2005 passed by the Superintendent of Police, Warangal District, on the ground of unauthorized absence without issuance of any show cause notice or enquiry. Aggrieved thereby, she approached the Tribunal by way of O.A.No.1583 of 2013. The said O.A. was allowed by order dated 23.12.2013, wherein the Tribunal opined that the matter was covered by its earlier order dated 31.01.2012 in O.A.No.6544 of 2011. Aggrieved thereby, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 25.09.2014. W.V.M.P.No.1396 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.31645 of 2014, the first respondent was appointed as a Home Guard on 12.12.1998 in Nalgonda District. He was removed from service by order dated 07.06.2001 of the Superintendent of Police, Nalgonda District, on the ground of unauthorized absence from duty without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.4588 of 2014 before the Tribunal. The said O.A. was allowed by order dated 01.08.2014, wherein the Tribunal opined that the

matter was covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 21.10.2014.

In W.P.No.31784 of 2014, the first respondent was appointed as a Home Guard in Nalgonda District on 27.08.2005. He was removed from service by the Superintendent of Police, Nalgonda District, *vide* order dated 15.04.2006, on the ground of unauthorized absence from duty without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.4664 of 2014 before the Tribunal. The said O.A. was allowed by order dated 05.08.2014, wherein the Tribunal opined that the matter was covered by its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 24.10.2014. W.V.M.P.No.1196 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.34122 of 2014, the first respondent was appointed as a Home Guard on 15.03.2006 in Warangal District. He was removed from service by the Superintendent of Police, Warangal District, by order dated 16.08.2006 on the ground of involvement in a criminal case. This order of removal was not preceded by any show cause notice or enquiry. Aggrieved thereby, he approached the Tribunal by way of O.A.No.7349 of 2013. The said O.A. was allowed by order dated 07.10.2013, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge

was granted by this Court on 12.11.2014. W.V.M.P.No.4152 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.35717 of 2014, the first respondent was appointed as a Home Guard on 06.01.1992. He was removed from service on the ground of unauthorized absence, *vide* order dated 17.11.2001 of the Superintendent of Police, Warangal District, without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.6117 of 2013 before the Tribunal. The said O.A. was allowed by the Tribunal by order dated 27.12.2013 relying upon the judgment of the Supreme Court in STATE OF MADHYA PRADESH V/s. SYED QAMARALI[1]. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 25.11.2014.

In W.P.No.38533 of 2014, the first respondent was appointed as a Home Guard in June, 1999. He was removed from service on the ground of unauthorized absence by the Superintendent of Police, Warangal District, *vide* order dated 23.11.2009. The said order records that show cause notices dated 31.08.2009, 17.09.2009 and 03.10.2009 were issued to the first respondent. He filed O.A.No.5760 of 2014 before the Tribunal assailing his removal from service on the ground that he was not issued any notice and no enquiry was conducted. The said O.A. was disposed of by order dated 25.09.2014 directing the authorities to allow him to continue in service if no removal orders were passed till then. It may be noted that the Tribunal recorded in the order that the first respondent contended before it that no removal order had been issued. That is the reason why relief was granted on the lines indicated above. However,

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[1] 1967 SLR 228 (SC)

though an order of removal had already been passed on 23.11.2009, the State and its police officials filed this writ petition assailing the order passed by the Tribunal. Interim suspension of the order under challenge was granted by this Court on 16.12.2014. W.V.M.P.No.939 of 2015 was filed by the first respondent-applicant to vacate the said order. In the counter filed in support thereof, the first respondent-applicant categorically denied receipt of the show cause notices dated 31.08.2009, 17.09.2009 and 03.10.2009. He pointed out that the copies thereof, filed by the authorities before this Court, clearly demonstrated that they had been served on some one named Saramma. He stated that there was no person by that name in his family or amongst his relations and that he never received any of the said show cause notices. No reply affidavit was filed by the State rebutting this factual averment.

In W.P.No.3224 of 2015, the first respondent was appointed as a Home Guard in Warangal District in the year 2005. He was removed from service by the Superintendent of Police, Warangal District, *vide* order dated 28.10.2006 on the ground of unauthorized absence from duty. Aggrieved thereby, he filed O.A.No.5489 of 2014 before the Tribunal. The said O.A. was allowed by order dated 17.09.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Though no counter-affidavit was filed by the authorities before the Tribunal, they claimed in the affidavit filed in support of the writ petition that show cause notices dated 05.06.2006, 31.07.2006 and 25.08.2006 were issued to him and despite acknowledging receipt thereof, he failed to submit his explanation, leading to his removal from service by the order dated 28.10.2006. In the counter filed in support of his vacate stay petition in W.V.M.P.No.2194 of 2015, the first respondent-applicant

denied receipt of any show cause notices. He categorically stated that the signatures in the said show cause notices were concocted and manipulated. No reply affidavit was filed denying this counter-affidavit averment. Perusal of the show cause notices placed before this Court reflects that they bear the signatures of D.Suresh but comparison thereof with those of the first respondent-applicant in his counter affidavit filed before this Court does not demonstrate any similarity. Interim suspension of the said order was granted by this Court on 18.02.2015.

In W.P.No.4133 of 2015, the first respondent was appointed as a Home Guard on 13.05.1992. He was removed from service by the Superintendent of Police, Warangal District, *vide* order dated 19.01.1995, on the ground of unauthorized absence from duty without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1281 of 2014 before the Tribunal. The said O.A. was allowed by order dated 17.02.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition.

In W.P.No.5725 of 2015, the first respondent was appointed as a Home Guard on 19.01.1989. He was removed from service by the Superintendent of Police, Adilabad District, on the ground of unauthorized absence from duty, *vide* order dated 03.12.1996. His appeal dated 24.04.2013 against the said removal was dismissed by the Additional Director General of Police, Home Guards, on 13.06.2013. Even prior to the dismissal of the appeal, the first respondent approached the Tribunal by way of O.A.No.4555 of 2013 seeking a direction to the authorities to consider his representation dated 24.04.2013 for re-enrolling him as a Home Guard and to declare his removal from service without due process

of law as illegal. By order dated 19.06.2013, the Tribunal allowed the O.A. following its earlier order dated 20.11.2012 in O.A.No.9065 of 2012. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 09.03.2015. W.V.M.P.No.1085 of 2015 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.8720 of 2015, the first respondent was appointed as a Home Guard on 19.01.1989. He was removed from service by the Superintendent of Police, Adilabad District, *vide* order dated 19.01.1997 on the ground of unauthorized absence without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.5537 of 2013 before the Tribunal. The said O.A. was allowed by order dated 19.07.2013, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 31.03.2015. W.V.M.P.No.1450 of 2016 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.10440 of 2015, the first respondent was appointed as a Home Guard on 14.07.1991. He was removed from service by the Superintendent of Police, Adilabad District, on the ground of unauthorized absence, *vide* order dated 19.12.1997, without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.524 of 2014 before the Tribunal. The said O.A. was allowed by order dated 30.01.2014, wherein the Tribunal opined that the removal order was vitiated on the ground of violation of the principles of natural justice. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by

this Court on 13.04.2015. W.V.M.P.No.1449 of 2016 was filed by the first respondent applicant to vacate the said order.

In W.P.No.11406 of 2015, the first respondent was appointed as a Home Guard on 18.05.1991. He was removed from service by the Superintendent of Police, Adilabad District, *vide* order dated 18.10.1995, on the ground of unauthorized absence without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.459 of 2014 before the Tribunal. The said O.A. was allowed by order dated 29.01.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 22.04.2015. W.V.M.P.No.1455 of 2016 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.11422 of 2015, the first respondent was appointed as a Home Guard on 20.05.1991. He was removed from service by the Superintendent of Police, Adilabad District, *vide* order dated 03.12.1996, on the ground of unauthorized absence from duty without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.194 of 2014 before the Tribunal. The said O.A. was allowed by order dated 21.01.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 22.04.2015. W.V.M.P.No.1454 of 2016 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.12671 of 2015, the first respondent was appointed as a Home Guard on 06.09.2005. He was removed from service by the

Superintendent of Police, Adilabad District, *vide* order dated 23.04.2008, on the ground of unauthorized absence from duty without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.2352 of 2013 before the Tribunal. The said O.A. was allowed by common order dated 25.04.2013 along with O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted on 29.04.2015.

In W.P.No.15941 of 2015, the first respondent was appointed as a Home Guard on 08.03.1985. He was removed from service on 02.12.1985 due to unauthorized absence but taken back in service on 06.06.1987. He was again removed from service on 26.05.1994 due to long absence from duty. His representations to reinstate him failed to evoke any response and his appeal was also dismissed by the Additional Director General of Police, Home Guards, on 17.06.2013. He thereupon filed O.A.No.3084 of 2013 before the Tribunal. By interim order dated 29.04.2013, the Tribunal directed the authorities to consider his representations dated 18.03.2013 and 19.03.2013 for re-enrollment as a Home Guard and pass appropriate orders within a time frame. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the said order was granted on 12.06.2015.

In W.P.No.15943 of 2015, the first respondent was appointed as a Home Guard on 31.03.1997. He was removed from service by the Superintendent of Police, Adilabad District, *vide* order dated 10.04.2003, on the ground of unauthorized absence without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.6727 of 2013 before the Tribunal. The said O.A. was allowed at the admission stage by order dated 13.09.2013, wherein the Tribunal followed its earlier order dated

25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 09.06.2015.

In W.P.No.15952 of 2015, the first respondent was appointed as a Home Guard on 05.05.1991. He was removed from service by the Superintendent of Police, Adilabad District, by order dated 03.12.1996, on the ground of unauthorized absence without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.394 of 2014 before the Tribunal. The said O.A. was allowed by order dated 28.01.2014, wherein the Tribunal opined that the removal was illegal as the principles of natural justice had not been followed. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order was granted on 09.06.2015. W.V.M.P.No.1429 of 2016 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.16007 of 2015, the first respondent was appointed as a Home Guard on 23.08.1991. He was removed from service by the Superintendent of Police, Adilabad District, by order dated 19.01.1997, on the ground of unauthorized absence without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.197 of 2014 before the Tribunal. The said O.A. was allowed by order dated 21.01.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 10.06.2015. W.V.M.P.No.1731 of 2016 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.17167 of 2015, the first respondent was appointed as a Home Guard on 16.08.2005. He was removed from service by the

Superintendent of Police, Warangal District, by order dated 20.01.2010, on the ground of unauthorized absence without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.966 of 2014 before the Tribunal. The said O.A. was allowed by order dated 11.02.2014, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 16.06.2015.

In W.P.No.17622 of 2015, the first respondent was appointed as a Home Guard in the year 2004. He was removed from service by order dated 18.02.2010 of the Commandant, Home Guards, Hyderabad City, for unauthorized absence without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.5458 of 2014 before the Tribunal. By order dated 15.09.2014, the Tribunal allowed the said O.A. following its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Aggrieved thereby, the State and its police officials field this writ petition. By order dated 18.06.2015, this Court granted interim suspension of the order under challenge. W.V.M.P.No.5182 of 2017 was filed by the first respondent-applicant to vacate the said order.

In W.P.No.20458 of 2015, the first respondent was appointed as a Home Guard on 07.09.2001 in Nalgonda District. He was removed from service by the Superintendent of Police, Nalgonda District, by order dated 28.01.2009, on the ground that he had indulged in drinking and prevented a witness from attending an enquiry conducted by the Additional Superintendent of Police on 20.11.2008, without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.5531 of 2014 before the Tribunal. The O.A. was allowed by order dated 17.09.2014, wherein the

Tribunal opined that the order dated 25.04.2013 in O.A.No.1493 of 2013 and batch covered the issue. Assailing the said order, the State and police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 08.07.2015.

In W.P.No.41494 of 2015, the first respondent was appointed as a Home Guard in the year 2009. He was removed from service by the Superintendent of Police, Ranga Reddy District, *vide* order dated 05.07.2011, on the ground of unauthorized absence without issuance of any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1205 of 2015 before the Tribunal. The O.A. was allowed by order dated 13.03.2015, wherein the Tribunal followed its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. Assailing the said order, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted by this Court on 22.12.2015.

In W.P.No.67 of 2016, the first respondent was appointed as a Home Guard in Ranga Reddy District on 10.03.2010. He was removed from service by order dated 01.07.2011 of the Superintendent of Police, Ranga Reddy District, on the ground of unauthorized absence without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1003 of 2015 before the Tribunal which was allowed by order dated 12.02.2015, following the order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. The order of removal of the applicant was set aside and the authorities were directed to reinstate him in service. Aggrieved thereby, the State and its police officials filed this writ petition. Interim suspension of the order under challenge was granted on 05.01.2016 by this Court.

In W.P.No.69 of 2016, the first respondent was appointed as a Home Guard on 01.06.2005. Due to his unauthorized absence from duty,

he was removed from service, *vide* order dated 21.11.2008 of the Superintendent of Police, Ranga Reddy District, without any show cause notice or enquiry. Aggrieved thereby, he filed O.A.No.1206 of 2015 before the Tribunal. The Tribunal allowed the O.A. *vide* order dated 13.03.2015 following its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch and set aside the order of removal. Aggrieved thereby, the State and police officials filed this writ petition. By order dated 05.01.2016, this Court granted interim suspension of the order under challenge.

In W.P.No.1460 of 2016, the first respondent was appointed as a Home Guard at Hyderabad in 1998. He was removed from service under proceedings dated 29.11.2003 of the Commandant, Home Guards, Hyderabad City, on the ground that he was indulging in corrupt activities. Admittedly, neither a show cause notice was issued nor was an enquiry held prior to the removal. Aggrieved thereby, he filed O.A.No.4684 of 2014 before the Tribunal. By order dated 05.08.2014, the Tribunal allowed the O.A. following its order dated 25.04.2013 in O.A.No.1493 of 2013 and batch and directed the authorities to reinstate him in service forthwith. Assailing the said order, the State and its police officials filed this writ petition. By order dated 22.01.2016, this Court granted interim suspension of the order under challenge. W.V.M.P.No.1386 of 2017 was filed by the first respondent to vacate the said order.

In W.P.No.4494 of 2016, the first respondent was appointed as a Home Guard in Warangal District in the year 2006. He was removed from the rolls of the Home Guards Organization for unauthorized absence, by order dated 23.06.2009 of the Superintendent of Police, Warangal District. Assailing the same, he filed O.A.No.5299 of 2014 before the Tribunal. The said O.A. was allowed by order dated 04.09.2014, following the earlier

order dated 24.12.2013 in O.A.No.9067 of 2013, directing the authorities to allow him to continue in service. Aggrieved thereby, the State and its police officials filed this writ petition. By order dated 12.02.2016, this Court granted interim suspension of the order under challenge.

In W.P.No.4801 of 2016, the first respondent was appointed as a Home Guard in 1988. Due to his unauthorized absence in April, 2007 he was removed from the Home Guards Organization, Karimnagar District, by proceedings dated 26.04.2007 of the Superintendent of Police, Karimnagar District. Aggrieved thereby, he filed O.A.No.5490 of 2014 before the Tribunal. By order dated 17.09.2014, the Tribunal allowed the O.A. following its earlier order dated 25.04.2013 in O.A.No.1493 of 2013 and batch. The authorities were directed to reinstate him in service. The State of Telangana and its police officials filed this writ petition assailing the said order. By order dated 18.02.2016, this Court granted interim suspension of the order under challenge.

This being the narrative of the case histories, it would be appropriate at this stage to consider the statutory backdrop of these cases. The Andhra Pradesh Home Guards Act, 1948 (*for brevity,* 'the Act of 1948'), being the adaptation of the Madras Home Guards Act, 1948, is applicable in the State of Telangana. Similarly, the Madras Home Guards Rules, 1949 (*for brevity*, 'the Rules of 1949'), framed under the provisions of the Act of 1948, would also have application. Section 2(a) of the Act of 1948 defines 'Home Guard' to mean a person who is appointed as a Home Guard under the said Act. Section 3 of the Act of 1948 contemplates constitution of the Home Guards Organization and vests every member of such organization with powers and duties in relation to protection of persons, security of property and preservation of public order or

tranquility. Section 4(1) provides that any person possessing the prescribed qualifications and wiling to serve may be appointed as a Home Guard by such authority in such manner as may be prescribed, subject to the provisions of the Act of 1948 and the Rules made thereunder. Section 4 also provides that on appointment as a Home Guard, a certificate of appointment would be issued to the incumbent, whereupon he would be vested with the powers, privileges and protection conferred under the Act of 1948 and the burden of discharging duties as a Home Guard. Section 7 of the Act of 1948 states that the Home Guard shall have the same powers, privileges and protection as an officer of the police and he shall be bound to serve the State for such period and in such areas as may be prescribed. Section 4 also states that a Home Guard can be suspended, dismissed or removed by the prescribed authority and in such an eventuality, his certificate of appointment shall cease to have effect. Section 8 states that all Home Guards shall be under the control of the police force. Section 9 details the penalties for cognizable offences committed by Home Guards. Section 11 makes it clear that all Home Guards, acting in exercise of their powers under the Act of 1948, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860.

The Rules of 1949 were framed in exercise of the power conferred by Section 10 of the parent Act. These rules were applicable to the erstwhile State of Andhra Pradesh and in consequence, they are presently applicable in the newly formed State of Telangana. Rule 3(1) of the Rules of 1949 prescribes that no person shall be eligible for appointment as a Home Guard unless he is not less than 20 years of age and not more than 45 years of age on the date of his application for enrolment; can read and

write in any one of the following languages, namely, English, Tamil, Telugu, Malayalam, Kannada and Hindustani; is of good character; and is a resident of the area. Rule 3(4) provides that every person selected by the Recruitment Committee for appointment as a Home Guard shall be medically examined and, if found fit, shall sign a pledge in Form B. Form B is the 'Pledge of Service'. Rule 5 pertains to training and states that every Home Guard shall, on enrolment, be required to undergo a course of training for a period of not more than three months in physical exercise, arms drill, lathi drill, musketry, fire-fighting, first aid, and the duties and powers of Home Guards. It further provides that every Home Guard may also be required to undergo a refresher course for a period of not more than two weeks at an annual camp. Rule 7 is of significance and it reads as under:

> '*7. Discipline.*-- (1) The Commandant shall comply with all orders in regard to the training of Home Guards and their use in aid of the police issued by the Commissioner of Police or the District Superintendent of Police concerned, as the case may be.
>
> (2) A Home Guard shall perform such duties and functions as may be assigned to him and shall obey every order of his superior officers.
>
> (3) For the purposes of administration and discipline, the Home Guards shall, subject the provisions of sub-rule (5) be under the control of their Commandant and, in his absence of the Adjutant or the other staff officers, if any, appointed to assist the Commandant.
>
> (4) The Commandant may, for good and sufficient reasons, impose on any Home Guard any of the following penalties:
>
> (a) reprimand;
>
> (b) extra duty;
>
> (c) withholding of payment of duty allowance;
>
> (d) suspension;
>
> (e) reduction of rank;

(f) removal; and

(g) dismissal.

No appeal shall lie against any of these punishments. In all cases of disciplinary action, a reasonable opportunity shall ordinarily be given to the delinquent Home Guard to show cause against the penalty proposed to be imposed on him, but in exceptional cases, when this course is not possible, it may be waived for special reasons to be recorded in writing.

(5) The Commissioner of Police in the Presidency-town and the District Superintendent of Police concerned elsewhere may, for good and sufficient reasons, direct the suspension, removal or dismissal of a Home Guard from his office.

(6) The superintendence of the Home Guards shall be vested in the Inspector General of Police and shall be exercised by him through the Commissioner of Police in the Presidency-town and through the Special Officer for the special armed police units and the District Superintendent of Police concerned elsewhere.'

Rule 7 fell for consideration before a Division Bench of this Court in STATE OF ANDHRA PRADESH V/s. P.PRASAD RAO[2]. The Division Bench, having considered the provisions of the Act of 1948 and the Rules of 1949, observed as under:

'14. There is no quarrel with the purport of Rule 7(4) of the Rules, which mandates that every order imposing penalty passed by the Commandant shall be preceded by a 'reasonable opportunity' and the delinquent HG shall be asked to show cause why the penalty should not be imposed on him/her. When the rules themselves prescribe the issue of a show cause notice so as to provide reasonable opportunity to the delinquent HG, any breach thereof must lead to invalidation of the order of punishment imposed by the Commandant. Therefore, we cannot find fault with the orders passed by the learned Tribunal which are subject-matter of W.P. Nos.7656, 10704, 11595, 12585 and 21661 of 2011. These writ petitions are, therefore, liable to be dismissed.

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[2] 2012 (1) ALD 76

15. Whether issue of a show cause notice calling upon the delinquent HG to submit explanation against the penalty proposed to be imposed would satisfy the principles of natural justice? We are afraid, it would not. Though Rule 7(4) of the Rules speaks of issue of a show cause notice only against the penalty proposed to be imposed, having regard to settled rules of interpretation we do not hesitate to hold that the show cause notice contemplated under Rule 7(4) of the Rules must also spell out the allegations/charges or contraventions leveled against the HG proposed for removal/dismissal. Such a show cause notice may contain the imputations and the material which is the basis for them. As otherwise, mere issue of a show cause notice calling upon for the explanation against the penalty proposed would be futile, and unless and until the delinquent HG is aware of charges/imputations leveled against him, he cannot effectively put forth his case even for reduction of the punishment proposed. The principle of legality is well settled. The Legislature never intends the enforcer of the law or the executive to act arbitrarily or unreasonably. The Legislature is presumed never to have intended the decision maker to arrive at a decision in an unfair manner. It should be the endeavour of the Court to read adherence to fairness and compliance with the principles of natural justice in every action taken under the statute or otherwise unless and until the statute itself specifically excludes the compliance with the rules of natural justice.'

The Division Bench therefore summed up that a show cause notice merely indicating the penalty to be imposed would not answer the test of fairness in administrative action but as to whether issuance of the show cause notice containing the charges/imputations and the instances of misconduct should be followed by an enquiry as contemplated under Article 311(2) of the Constitution was left open by the Division Bench as that issue had not been raised or argued before the Tribunal or before it.

In the light of the aforestated case law, which was followed by this Court while dismissing W.P.Nos.19455, 19811 and 26715 of 2014 by

common order dated 20.04.2018, there can be no doubting the settled legal position that a mere show cause notice indicating the penalty proposed to be imposed would not suffice and clear details must be furnished to the delinquent Home Guard as to what is the charge against him and the basis thereof. Any failure in this regard would invalidate the order of punishment, as pointed out in P.PRASAD RAO[2]. Therefore, in all the cases on hand where the authorities failed to issue a show cause notice, the orders of removal visited upon the Home Guards concerned are straightaway liable to be set aside.

Learned Government Pleader for Services, State of Telangana, would however contend that the delay on the part of the said Home Guards in approaching the Tribunal after their removal ought to have weighed against them and the Tribunal ought not to have granted them relief. However, we find from some of the orders under challenge that the Tribunal placed reliance on the decision of the Supreme Court in SYED QAMARALI[1]. Therein, the order of dismissal from service was passed on 22.12.1945. The appeal against the same was dismissed on 09.04.1947. A suit was filed on 08.12.1952 claiming that the order of dismissal was contrary to the regulations. One of the grounds raised by the State was that the said suit was barred by limitation. The trial Court held in favour of the State on this count. The appellate Court held that if the order of dismissal was void, the claim in the suit would not be barred by time but held on merits in favour of the State and dismissed the appeal. In second appeal, the Nagpur High Court held that the suit was not barred by time and decreed it on merits. It was against this decision of the Nagpur High Court that the matter was brought before a Constitution Bench of the Supreme Court. The Constitution Bench held that the order of dismissal

was totally invalid as it had been made in breach of a mandatory provision in the rules. It was further observed that it had no legal existence and it was not necessary for the employee to have the order set aside by a Court. The Bench observed that the defence of limitation, which was based only on the contention that the order had to be set aside by a Court before it became invalid, must therefore be rejected. The Supreme Court observed as under:

> 'We therefore hold that the order of dismissal having been made in breach of a mandatory provision of the rules subject to which only the power of punishment under section 7 could be exercised, is totally invalid. The order of dismissal had therefore no legal existence and it was not necessary for the respondent to have the order set aside by a court. The defence of limitation which was based only on the contention that the order had to be set aside by a court before it became invalid must therefore be rejected.'

All the learned counsel appearing before us for the Home Guards would rely on the aforestated observations of the Constitution Bench and assert that once an order of removal was passed against a Home Guard in violation of Rule 7(4) of the Rules of 1949, it was liable to be invalidated in terms of the observations made in P.PRASAD RAO[2] and such an order, being inherently invalid in its very inception, could not be protected by relying on law of limitation.

This Court finds merit in this submission.

No doubt, some of the Home Guards in the cases on hand remained unmoved for decades together after their removal from service. However, their failure to take steps immediately cannot enure to the benefit of the State to the extent of vesting the invalid orders of removal passed against such Home Guards with even a modicum of validity. No doubt, the delay on the part of the Home Guards in this regard cannot be

allowed to be taken advantage of by them. They would therefore not be entitled to any benefits in relation to the length of service that they may have rendered prior to such removal from service. They would only be entitled to reinstatement in service without any benefits whatsoever, including continuity of service, arrears of pay, seniority etc. Further, given the fact that most of them have crossed the age of 40 years, they would have to be subjected to a physical test to ascertain as to whether they are fit enough to be reappointed to a uniformed service.

One another aspect which was raised by the learned Government Pleader was as to the factum of show cause notices having been issued to the delinquent Home Guards in some of the cases on hand. It is unfortunate to note that such service of show cause notices seems to have been resorted to by the authorities through hand delivery. In some cases, signatures of the delinquent Home Guard or his family members are stated to have been obtained on the office copy in proof of such service of notice. However, the Home Guards concerned deny receipt of such show cause notices. Only in one writ petition, we find that neighbours were involved in the process of pasting of the show cause notices upon the house of the delinquent Home Guard. Needless to state, it is for the authorities to devise proper means of service of such notices upon delinquent Home Guards so as to have sufficient proof of service thereof. In the absence of such proof, the benefit of doubt must invariably go to the delinquent Home Guard. Further, as per the edict laid down in P.PRASAD RAO[2], the show cause notice must not only mention the penalty proposed to be imposed but also detail the charges against the delinquent Home Guard and the imputations which form the basis thereof so that he would have reasonable opportunity to meet the same. This test

is not adequately met even in the cases where show cause notices were issued. In one case, the show cause notices only called upon the delinquent Home Guard to report for duty but did not inform him of the impending disciplinary action or the proposed penalty of removal from service. In none of the show causes produced before us do we find sufficient details of the charges leveled and the basis thereof. This vagueness in the show cause notices cannot benefit the authorities at this stage.

We are also informed by the learned counsel appearing for the Home Guards that in each and every O.A. presented with delay, a miscellaneous application was filed seeking condonation thereof in terms of Section 21 of the Andhra Pradesh Administrative Tribunals Act, 1985. They would assert that it was only after the condonation of delay, the O.A. was numbered and taken up for adjudication on merits. If that was so, it was for the State to take steps at the time of condonation of the delay itself to challenge the same. But, admittedly, neither the State nor its police officials thought it fit to do so at that stage.

Learned Government Pleader would also contend that some of the Home Guards in the cases on hand rendered service for just a few years and approached the Tribunal against their removal from service long thereafter. We find it to be so. In some of the cases, the delinquent Home Guards were in service for less than three years (W.P.Nos.67/16, 41494/15, 5970/14, 19765/14, 26355/14, 26500/14, 29218/14 and 3224/15) but despite the length of service rendered by the delinquent Home Guards prior to removal from the rolls of the Home Guards Organization, the fact remains that they were entitled to the protection of Rule 7(4) of the Rules of 1949. Applicability of the statutory protection of

this rule is not dependant upon the length of service rendered by the Home Guard prior to imposition of the penalty. Therefore, the length of service rendered by the Home Guards has no relevance whatsoever in this context.

Learned Government Pleader would also point out that in some of the cases, the charges against the Home Guards concerned were grave in nature. However, even if the charges leveled against them were serious, it did not empower the authorities to brush aside the statutory protection afforded to them under Rule 7(4) of the Rules of 1949. Be it noted that it is not the case of the authorities in any of the cases on hand that issuance of a show cause notice and affording a reasonable opportunity of hearing was not possible and had to be waived as the case was an exceptional one. Be it noted that Rule 7(4) requires special reasons to be recorded in writing in the event this course is adopted. Further, we find from the orders passed by the Tribunal that in several such cases, liberty was given to the authorities to initiate disciplinary proceedings afresh in accordance with the due procedure if the authorities thought it fit to do so. However, without taking advantage of such liberty, the State and its police officials deemed it appropriate to approach this Court and obtain suspension of such orders in their entirety. It is now too late in the day for the authorities to reopen such long dead issues and hold enquires afresh.

On the above analysis, the writ petitions are dismissed but subject to the following conditions:

1) The first respondents-applicants in all these cases shall be subjected to a physical test to ascertain their fitness before being reinducted in service as Home Guards. An objective and transparent procedure shall be adopted by the State and its police

officials in this regard and all deserving candidates shall again be enrolled on the rolls of the Home Guards Organization.

2) Enrollment of such deserving candidates shall, however, not have the effect of conferring upon them the benefit of continuity of service, seniority, arrears of pay etc. for all purposes. Their enrollment would be on par with fresh appointments.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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SANJAY KUMAR,J

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M.GANGA RAO,J

8th JUNE, 2018

PGS